

<p style="text-align: right;">Page 126</p> <p>1 Q. Were you involved in any regulatory matters 2 concerning filings to any regulatory bodies in 3 Europe? 4 A. No. 5 Q. Did you have any involvement in patent filings? 6 A. No involvement in patent filings, no. 7 Q. Did you have any other involvement with patents 8 at Bentley Pharmaceuticals? 9 A. Yes, in preparing lists of existing patents 10 for -- in the U.S. as they were filed and lists 11 of patents that were known that were filed by 12 Laboratorios Belmac to Spanish authorities, and 13 these would normally end up in an area of our 14 management report. 15 Q. And from whom did you obtain information about 16 lists of existing patents in the United States 17 as they were filed? 18 A. Either from Jim Murphy or Bob Gyurik. 19 Q. And from whom did you obtain information about 20 lists of patents as they were filed by 21 Laboratorios Belmac? 22 A. From Jim Murphy. 23 Q. Did you receive any information about any 24 regulatory filings by Laboratorios Belmac from</p>	<p style="text-align: right;">Page 128</p> <p>1 usually their patent number, and a brief summary 2 of what the patent was about. 3 Q. Any -- did you receive any information about 4 regulatory filings other than patents from 5 Laboratorios Belmac or -- concerning 6 Laboratorios Belmac from Mr. Murphy? 7 A. Yes. 8 Q. Okay. What information did you receive? 9 A. Frequently, there would be products submitted to 10 the Ministry of Health in Spain by Laboratorios 11 Belmac for marketing authorization, and those 12 were of direct interest to Bentley. 13 Q. And do you recall what those products were? 14 A. No. There were many, several. 15 Q. Do you recall how Mr. Murphy informed you of 16 those products submitted for marketing 17 authorization? 18 A. Normally once they were made public, through a 19 press release, they may or may not have been 20 discussed at management meetings or from time to 21 time, we would have comments related to one 22 pending approval. For product authorization, it 23 was submitted to the MOH in Spain, Ministry of 24 Health, and it was pending, it would be of</p>
<p style="text-align: right;">Page 127</p> <p>1 Jim Murphy? 2 MS. ABREU: Objection, vague. 3 A. Could you either rephrase that or ask that 4 another way? 5 Q. Sure. You've testified that you received lists 6 of patents filed by Laboratorios Belmac from Jim 7 Murphy; is that correct? 8 A. Yes. 9 Q. Did you receive lists of patents filed by 10 Laboratorios Belmac from anyone else? 11 A. No. MS. ABREU: Objection, vague. 12 Q. Okay. Did you receive any other information 13 about regulatory filings filed by Laboratorios 14 Belmac? 15 A. No. 16 Q. Did you receive any information about regulatory 17 filings from Laboratorios Belmac from Jim 18 Murphy? 19 MS. ABREU: Objection, asked and 20 answered. 21 A. Yes. I answered that yes. 22 Q. What information did you receive from 23 Mr. Murphy? 24 A. Just a list of the few patents that were issued,</p>	<p style="text-align: right;">Page 129</p> <p>1 interest to us. 2 Q. Which product was that? 3 A. I can't identify specific. There were many, 4 many, many. 5 Q. But you indicated a moment ago that there was 6 one pending. Do you recall which one that was? 7 A. No. If at any point in time one was pending, it 8 may be listed as pending in our management 9 report. 10 Q. And pending products were listed or -- pending 11 products -- 12 A. Pending approvals were listed frequently. 13 Q. Pending approvals submitted by Laboratorios 14 Belmac were frequently listed in the Bentley 15 Pharmaceuticals management meeting agendas? 16 A. Maybe I should take out the word "frequently." 17 They were listed periodically. I can't recall 18 how frequent it really was. 19 Q. Do you recall whether they were ever discussed, 20 whether pending approvals submitted by 21 Laboratorios Belmac were ever discussed at 22 Bentley Pharmaceuticals management meetings? 23 A. Probably more in relation to the operations update to the board of directors. That's what I</p>

<p>1 recollect. There were pending approvals. For 2 instance, if you look at Exhibit 13, that list 3 that's in there on Page 2, you'll see that 4 that's a year 2002 planned generic drug 5 submissions. That would be a list of ones that 6 would be of interest to us that were going to be 7 submitted during the year. So at any point in 8 time, any one of those drugs could be pending 9 approval by the Ministry of Health.</p> <p>10 Q. In Spain?</p> <p>11 A. In Spain, as submitted by Laboratorios Belmac.</p> <p>12 Q. And do you recall who the outside contract 13 assistance was provided by for Bentley 14 Pharmaceuticals?</p> <p>15 A. Regulatory?</p> <p>16 Q. For regulatory matters.</p> <p>17 A. Yes.</p> <p>18 Q. And who was that?</p> <p>19 A. Her name was Brenda Stoezle, S T O E Z L E, I 20 think it is.</p> <p>21 Q. And do you recall whether Ms. Stoezle had a 22 legal background?</p> <p>23 A. I don't recall. I do know she was not a lawyer.</p> <p>24 Q. And how did Miss Stoezle manage or -- what were</p>	<p>Page 130</p> <p>1 Q. In New Hampshire?</p> <p>2 A. In New Hampshire.</p> <p>3 Q. I'd like to go back to a comment you made a few 4 seconds ago. You indicated that Spanish 5 regulatory or marketing approvals submitted by 6 Laboratorios Belmac were of interest to Bentley 7 Pharmaceuticals. Where were they of interest?</p> <p>8 A. Because Laboratorios Belmac was the primary 9 revenue generator for Bentley Pharmaceuticals. 10 Bentley is a public company on the New York 11 Stock Exchange, and anything affecting revenue 12 up or down is of primary importance to the 13 company.</p> <p>14 Q. Okay. Thank you.</p> <p>15 MR. FINE: Can we take a lunch break?</p> <p>16 MS. ABREU: That sounds good to me.</p> <p>17 (Luncheon recess taken from 12:52 p.m. to 18 1:39 p.m.)</p> <p>19 Q. Mr. Fitzgibbons, welcome back. Before we broke 20 for lunch, we had been discussing regulatory 21 matters, and I just wanted to ask you with 22 regard to one document whether that related to 23 your responsibilities in regulatory matters. So 24 I'm going to ask the court reporter to mark</p>
<p>1 Miss Stoezle's responsibilities as outside 2 contract assistance for regulatory matters?</p> <p>3 A. To develop regulatory documents for filing to 4 the FDA as directed by the company.</p> <p>5 Q. Was Ms. Stoezle a physician?</p> <p>6 A. A physician? No.</p> <p>7 Q. Or registered nurse?</p> <p>8 A. No.</p> <p>9 Q. Do you know if she had a science degree?</p> <p>10 A. I don't know that.</p> <p>11 Q. And was Ms. Stoezle associated or affiliated 12 with any company as a contract assistant?</p> <p>13 A. I'm sure she had her own consulting company, but 14 I don't recall what the name of it was.</p> <p>15 Q. And what assistance did you provide Ms. Stoezle?</p> <p>16 A. It was primarily as a liaison at certain stages 17 of projects that she might have been working on 18 or if we needed to retain certain files resident 19 at the company, she would send those to me and 20 basically I would be the repository for them at 21 the company and make sure we got them properly 22 filed.</p> <p>23 Q. And where were those files maintained?</p> <p>24 A. At Bentley Pharmaceuticals.</p>	<p>Page 131</p> <p>1 another exhibit.</p> <p>2 (Copy of E-mail to Mr. Murphy by 3 Mr. Fitzgibbons, dated January 7, 2003 4 was marked Exhibit Number 14 for 5 identification.)</p> <p>6 MR. FINE: While the witness is 7 reviewing the exhibit, I'll identify for the 8 record that it's a document that's marked with 9 Bates Number BEL 042855.</p> <p>10 A. Okay.</p> <p>11 Q. Do you recognize this document?</p> <p>12 A. Just only from this e-mail; from the -- today as 13 you're handing it to me.</p> <p>14 Q. Have you seen this document before?</p> <p>15 A. I probably did -- I don't recall it -- since I 16 was copied on it.</p> <p>17 Q. Do you have any reason to think you did not 18 receive this document?</p> <p>19 A. No.</p> <p>20 Q. This document is an e-mail; is that correct?</p> <p>21 A. That's correct.</p> <p>22 Q. And it's from Concha Sanchez?</p> <p>23 A. Yes.</p> <p>24 Q. To Jim Murphy?</p>

<p style="text-align: right;">Page 134</p> <p>1 A. Yes. 2 Q. Okay. And you were CCed on it? 3 A. Yes. 4 Q. Do you recognize Miss Sanchez, Concha Sanchez? 5 A. Yes. 6 Q. Who is Concha Sanchez? 7 A. She's a secretary for Adolfo Herrera, personal assistant. 8 Q. And who is Mr. Herrera? 9 A. He's the general manager for Laboratorios Belmac. 10 Q. Okay. And -- 11 A. In fact, this was really not from Concha. This was from Adolfo. She would often send out his e-mails. You notice that it's "Best regards, Adolfo." 12 Q. So this is a letter, as you understand it, from Adolfo Herrera sent by Concha Sanchez, correct? 13 A. Yes. 14 Q. And do you understand what the e-mail is about? 15 A. Not really, only from reading what it says in there. 16 Q. Do you understand why you were CCed on it? 17 A. I can guess. I was often CCed on documents that</p>	<p style="text-align: right;">Page 136</p> <p>1 mailing of this to Mr. Stote and Miss Stoezle in 2 addition to Mr. Murphy why you might have been 3 CCed on it? 4 A. The only reason is, as I say, because I often supported Bob Stote, Dr. Stote, in any dealings he would have on clinical matters. 5 Q. And does this relate to a clinical matter? 6 A. I don't know that, that it does. 7 Q. Do you recall any conversations about any of the subjects described in this e-mail? 8 A. No, I don't. 9 Q. Okay. You mentioned a few moments ago that you knew Concha Sanchez as an assistant to 10 Mr. Adolfo Herrera; is that correct? 11 A. That's correct. 12 Q. Do you know any other employees of Laboratorios Belmac? 13 A. Yes. 14 Q. Who else do you know at Laboratorios Belmac? 15 A. Well, I've met several, but the ones that I recall are Nieves Hernandez. She's a doctor, a medical doctor. Of course, Adolfo Herrera himself; Concha, who I've met a couple of times. 16 Q. There are others but no knowledge of them other</p>
<p style="text-align: right;">Page 135</p> <p>1 went to Dr. Stote or from time to time on things 2 that were related to Brenda Stoezle. 3 Q. And as you recall, did this e-mail relate to 4 your regulatory responsibilities at Bentley? 5 A. No, not at all. 6 Q. Not at all? 7 A. No. 8 Q. Why do you recall not at all? 9 A. Because I wouldn't have had anything to do with 10 this -- these topics that are in here. 11 Q. What are these topics? 12 A. One has to do with omeprazole. One has to do 13 with Simvastatin. 14 Q. And where do you see -- okay. So the first 15 three items, 1, 2, and 3, do those relate to 16 omeprazole? 17 A. It appears they do, yeah. 18 Q. And the item below them relates to Simvastatin; 19 is that correct? 20 A. Yes. 21 Q. Do you understand what omeprazole is? 22 A. What the drug product is? Omeprazole, it's a 23 drug product, sure. 24 Q. And do you recall any reason other than the</p>	<p style="text-align: right;">Page 137</p> <p>1 than just a casual meeting. 2 Q. And where did you meet employees of Laboratorios 3 Belmac? 4 A. On two separate visits to Madrid and Zaragoza, 5 Spain, two locations where Laboratorios Belmac 6 had business offices or manufacturing plant. 7 Q. And when did you visit Madrid? 8 A. I can't recall the specific dates. I would 9 guess it was in 2001 sometime and possibly 2002. 10 Q. Do you recall if your visits to Spain were for 11 business? 12 A. Yes. 13 Q. Have you visited Spain at any other time other 14 than for business for Bentley Pharmaceuticals? 15 A. No. 16 Q. Do you recall whether your first visit in 2001 17 was at the beginning of the year or at the end 18 of the year? 19 A. I don't recall. 20 Q. Did you visit Zaragoza on that occasion? 21 A. Yes. 22 Q. Did you visit Laboratorios Belmac's offices in 23 Madrid on that occasion? 24 A. Yes.</p>

35 (Pages 134 to 137)

<p style="text-align: right;">Page 138</p> <p>1 Q. Did you accompany anyone on that visit? 2 A. Yes. 3 Q. Whom did you accompany? 4 A. Jim Murphy. 5 Q. Anyone else? 6 A. No. 7 Q. For what purpose did you visit Spain in 2001 8 with Jim Murphy? 9 A. My purpose was more for familiarization with the 10 headquarters for Laboratorios Belmac in Madrid 11 and their manufacturing operations in Zaragoza. 12 Q. Do you know what Jim Murphy's purpose in 13 visiting Spain was? 14 A. I do not know. 15 Q. Did he ever tell you why he was visiting Spain 16 in 2001 with you? 17 A. No. 18 Q. Whose idea was it that you should visit Spain in 19 2001 with Mr. Murphy? 20 A. It was primarily Jim's, but it was out of my own 21 desire as well to go there and get familiar with 22 what was happening there. 23 Q. How long did you stay there? 24 A. It's a three-day stay each.</p>	<p style="text-align: right;">Page 140</p> <p>1 mentioned to you earlier. There were a number 2 of people on the staff under Adolfo Herrera that 3 I met. I can't even remember their names 4 actually. 5 Q. Does anything stick in your mind about that 6 visit? 7 A. It was an interesting visit. Enjoyed it. Got 8 an opportunity to -- particularly the 9 manufacturing operations in Zaragoza, to see the 10 improvements in the plant, equipment that was 11 installed. 12 Q. And this is in 2001? 13 A. No, that was the second visit I'm referring to. 14 Q. And do you recall what equipment was installed 15 in 2002? 16 A. It was some pretty high-volume equipment. I'm 17 not even sure of the name of it. It was 18 microgranulation processing equipment that I 19 recall. I don't know what the specific name of 20 it was. 21 Q. And do you recall when in 2002 you made that 22 trip? 23 A. No. 24 Q. Was it in the first half of 2002?</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. Do you recall whether your visit in 2002 was for 2 three days? 3 A. Not exactly. It was no more than three days. 4 Q. Okay. So that I'm clear, you said in 2001, you 5 visited Madrid or -- Spain with Jim Murphy, and 6 you visited Madrid for three days and you 7 visited Zaragoza for three days? 8 A. No, no, combination of the two. It was just a 9 three-day trip total where we visited both 10 locations during that trip. 11 Q. And on the occasion in 2002 when you visited 12 Spain, do you recall the purpose of that trip? 13 A. It was follow-on familiarization, a review of 14 the manufacturing plant, taking a look at new 15 equipment that was purchased and installed, just 16 kind of a more in-depth look at what they do and 17 how they operate. 18 Q. And did you also accompany Mr. Murphy on that 19 occasion? 20 A. Yes, I did. 21 Q. In your first visit to Spain in 2001, do you 22 recall which employees of Laboratorios Belmac 23 you met with? 24 A. I can't name them all, just the primary ones I</p>	<p style="text-align: right;">Page 141</p> <p>1 A. I can't recall. 2 Q. When you left the United States -- I'm assuming 3 you left the United States to travel to Spain. 4 Did you leave the United States to travel to 5 Spain? 6 A. Yes. 7 Q. Was it winter in the United States when you 8 left? 9 A. I can't recall. I really don't know what time 10 of year it was. I'd have to look back in travel 11 records. 12 Q. Do you keep travel records? 13 A. Sure. 14 Q. Do you keep records of your travel for Bentley 15 Pharmaceuticals? 16 A. Yes. 17 Q. Are those records kept in your office at Bentley 18 Pharmaceuticals? 19 A. Generally for a period of time before I toss 20 them out. 21 Q. Do you still have records of your trip to Spain? 22 A. Primarily through expense reports I've 23 submitted. 24 Q. To whom do you submit expense reports?</p>

<p style="text-align: right;">Page 142</p> <p>1 A. To my -- whoever my supervisor is for approval, 2 and ultimately it goes to finance for approval 3 and payment.</p> <p>4 Q. And in 2001 and 2002, who was your supervisor? 5 A. Bob Gyurik.</p> <p>6 Q. Do you recall submitting expense reports for 7 your trips to Spain in 2001 and 2002?</p> <p>8 A. No, I don't recall actually submitting them to 9 him, but I'm sure I did.</p> <p>10 Q. Okay. Why are you sure you did? 11 A. Because I submit everything of that nature that 12 requires his approval to him.</p> <p>13 Q. Why -- do you recall -- strike that. Did Jim 14 Murphy accompany you on your visit to the 15 Zaragoza plant in 2002 to examine 16 microgranulation equipment?</p> <p>17 MS. ABREU: Objection, 18 mischaracterizes testimony.</p> <p>19 A. I don't know what all his purposes were. I know 20 that, obviously, that was one because we both 21 viewed it together.</p> <p>22 Q. Did you discuss that microgranulation equipment 23 with Mr. Murphy?</p> <p>24 A. Only during the visit and, you know, as we were</p>	<p style="text-align: right;">Page 144</p> <p>1 equipment that he owned as the general manager. 2 Q. How did you come to understand that he was proud 3 of the new piece of equipment?</p> <p>4 A. Because he was happy, he had a smile on his 5 face.</p> <p>6 Q. Did you have a smile on your face?</p> <p>7 A. No, I didn't, not that I recall.</p> <p>8 Q. Did Mr. Murphy have a smile on his face?</p> <p>9 A. I don't recall that.</p> <p>10 Q. Do you recall anything about your visit to 11 Madrid in 2002?</p> <p>12 A. Other than -- well, I recall visiting the 13 headquarters in Madrid for Laboratorios Belmac, 14 and I recall the tour of the plant in Zaragoza 15 during the same visit.</p> <p>16 Q. Do you recall whether it was hot in Madrid or 17 cold in Madrid?</p> <p>18 MS. ABREU: Objection, asked and 19 answered.</p> <p>20 A. I don't know. I don't recall. I don't think it 21 was excessively hot or excessively cold. 22 Somewhere in between.</p> <p>23 Q. Did you bring a great deal of luggage with you 24 or very little?</p>
<p style="text-align: right;">Page 143</p> <p>1 actually viewing the equipment.</p> <p>2 Q. Do you recall what that discussion was about?</p> <p>3 A. No, I don't.</p> <p>4 Q. But you do recall discussing it with him?</p> <p>5 A. Yes.</p> <p>6 Q. Do you recall when that equipment was acquired 7 by Laboratorios Belmac?</p> <p>8 A. No, I don't.</p> <p>9 Q. Do you recall anything else about that equipment 10 from your visit to Spain in 2002?</p> <p>11 A. No, nothing specific other than it was nice, a 12 new, shiny, stainless steel piece of equipment.</p> <p>13 Q. Do you recall who at Laboratorios Belmac showed 14 you and Mr. Murphy that equipment?</p> <p>15 A. Yes.</p> <p>16 Q. Who was that?</p> <p>17 A. Adolfo Herrera.</p> <p>18 Q. Do you recall any comments that Mr. Herrera made 19 while showing you that equipment?</p> <p>20 A. No, nothing specific.</p> <p>21 Q. Do you recall any general comments that 22 Mr. Herrera made while showing you that 23 equipment?</p> <p>24 A. Only that he was proud of the new piece of</p>	<p style="text-align: right;">Page 145</p> <p>1 A. No.</p> <p>2 Q. Do you remember bringing any winter coats?</p> <p>3 A. No.</p> <p>4 Q. Summer clothing?</p> <p>5 MS. ABREU: Objection, asked and 6 answered.</p> <p>7 A. Just average clothing, a suit, tie.</p> <p>8 Q. Do you recall bringing a jacket?</p> <p>9 A. No.</p> <p>10 Q. Do you recall bringing an overcoat?</p> <p>11 A. No.</p> <p>12 Q. Okay. Do you keep a calendar of your 13 activities?</p> <p>14 A. I do generally for the current year.</p> <p>15 Q. And what do you do with that calendar after that 16 current year?</p> <p>17 A. Toss it, chuck it.</p> <p>18 Q. Do you keep an electronic calendar for your 19 activities?</p> <p>20 A. No, I'm not in the habit of keeping an electronic calendar.</p> <p>21 Q. Do you have a PDA?</p> <p>22 A. No.</p> <p>23 Q. Do you keep any entries in Microsoft Outlook, if</p>

<p>1 you use that?</p> <p>2 A. I don't use the calendar in Microsoft Outlook,</p> <p>3 if that's what you're referring to.</p> <p>4 Q. I'd like to show you a couple more documents,</p> <p>5 but before I do, you testified earlier today</p> <p>6 that you assisted with presentations made to --</p> <p>7 A. Oh, for Dr. Stote.</p> <p>8 Q. -- various people for Mr. Stote. Do you recall</p> <p>9 to whom those presentations were made?</p> <p>10 A. Really, they weren't -- the type of presentation</p> <p>11 I was referring to, that was for Bob Stote to</p> <p>12 make a presentation or to man a booth at a</p> <p>13 conference, such as the American Diabetes</p> <p>14 Association, very large conferences of that type</p> <p>15 where we were invited to maintain a booth and</p> <p>16 present a wall-type presentation. So when I was</p> <p>17 referring to presentations, it was probably more</p> <p>18 in terms of graphics and helping him prepare</p> <p>19 that wall presentation, if you will.</p> <p>20 Q. I'm going to show you a document. You recall</p> <p>21 that being in the year 2003; is that correct?</p> <p>22 A. Could have been. I'm not sure if it was 2003.</p> <p>23 It was more than one conference.</p> <p>24 (Presentation to Bentley)</p>	<p>Page 146</p> <p>1 my familiarization of the plant, and whether I</p> <p>2 was there or not, whoever may have visited</p> <p>3 probably would have seen the same thing.</p> <p>4 Q. And was that because the microgranulation</p> <p>5 equipment was significant?</p> <p>6 A. I think anything that occurred to the plant, you</p> <p>7 know, was of interest to Bentley in the U.S.,</p> <p>8 whether it was expansion, improvement, whatever</p> <p>9 because, as I stated earlier, anything that</p> <p>10 affects their ability to generate revenue is of</p> <p>11 interest to Bentley.</p> <p>12 Q. And this equipment was of interest?</p> <p>13 A. Certainly any new piece of equipment would be.</p> <p>14 Q. Thank you. I just have a couple of quick</p> <p>15 questions that we can probably deal with quite</p> <p>16 quickly. Earlier today, after the -- well,</p> <p>17 would you please identify yourself for the</p> <p>18 record?</p> <p>19 A. My name is Paul Fitzgibbons.</p> <p>20 Q. And would you spell that, please?</p> <p>21 A. Sure. F I T Z G I B B O N S.</p> <p>22 Q. And, Mr. Fitzgibbons, would you please state</p> <p>23 your primary residence for the record, please?</p> <p>24 A. I reside at 15 Hobbs Road, H O B B S, North</p>
<p>Page 147</p> <p>1 Pharmaceuticals, Inc. was marked Exhibit</p> <p>2 Number 15 for identification.)</p> <p>3 Q. Do you recognize this document?</p> <p>4 A. No, I don't.</p> <p>5 Q. Have you ever seen this document before?</p> <p>6 A. Not that I can recall.</p> <p>7 Q. Did you have any involvement in the preparation,</p> <p>8 compilation or writing of this document?</p> <p>9 MS. ABREU: Objection, asked and</p> <p>10 answered</p> <p>11 A. Not that I can recall. I don't believe I had</p> <p>12 anything to do with it.</p> <p>13 Q. Okay. I'd like to come back for just a second</p> <p>14 to 2002 and Spain. You testified a few moments</p> <p>15 ago that you recalled visiting the Zaragoza</p> <p>16 plant in 2002 to see new microgranulation</p> <p>17 equipment acquired by Laboratorios Belmac; is</p> <p>18 that correct?</p> <p>19 MS. ABREU: Objection,</p> <p>20 mischaracterizes testimony.</p> <p>21 A. That was not the primary purpose; just to go</p> <p>22 visit and see this new equipment.</p> <p>23 Q. But it was a purpose?</p> <p>24 A. It was a part of the visit that had to do with</p>	<p>Page 149</p> <p>1 Hampton, New Hampshire 03862.</p> <p>2 Q. And are you presently married?</p> <p>3 A. Yes.</p> <p>4 Q. To whom are you married?</p> <p>5 A. To Geraldine Fitzgibbons.</p> <p>6 Q. And do you have any children with</p> <p>7 Miss Fitzgibbons -- Mrs. Fitzgibbons?</p> <p>8 A. Yes.</p> <p>9 Q. How many children do you have?</p> <p>10 A. I have two.</p> <p>11 Q. And what are their names?</p> <p>12 A. Kristin. She's married now. You want her full</p> <p>13 name?</p> <p>14 Q. Please.</p> <p>15 A. Kristin McCarthy, and Shea Fitzgibbons. Shea is</p> <p>16 S H E A.</p> <p>17 Q. And in what year were you born, Mr. Fitzgibbons?</p> <p>18 A. 1946.</p> <p>19 MR. FINE: Thank you very much. I</p> <p>20 have no further questions.</p> <p>21 MS. ABREU: Mr. Fitzgibbons, I have</p> <p>22 just a couple of questions for you.</p> <p>23 EXAMINATION BY MS. ABREU:</p> <p>24 Q. As Mr. Fine stated earlier, my name is Veronica</p>

<p style="text-align: right;">Page 150</p> <p>1 Abreu, and I represent Bentley Pharmaceuticals 2 in this case. I just wanted to clarify a couple 3 of things. Do you recall earlier today when you 4 testified regarding the project management 5 reports that you prepared concerning the 6 management meetings?</p> <p>7 A. Yes.</p> <p>8 Q. Well, strike that. Before I ask you that, you 9 mentioned Laboratorios Belmac in the testimony 10 earlier today; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Is Laboratorios Belmac related to Bentley 13 Pharmaceuticals, Inc.?</p> <p>14 A. Yes.</p> <p>15 Q. And what is Laboratorios Belmac?</p> <p>16 A. It's a wholly owned subsidiary of Bentley 17 Pharmaceuticals, Inc.</p> <p>18 Q. Okay. And going back to the project status 19 reports that you wrote regarding the management 20 meetings, was the projects or activities -- were 21 there any reports included in those project 22 management -- project status reports, excuse me, 23 regarding the projects or activities of 24 Bentley's subsidiary, Laboratorios Belmac?</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. Are those activities the activities of 2 Laboratorios Belmac in Spain?</p> <p>3 A. Yes, they are.</p> <p>4 MS. ABREU: Thank you, 5 Mr. Fitzgibbons. I have no further questions.</p> <p>6 MR. FINE: I think we're done. 7 (Deposition concluded at 2:06 p.m.)</p>
<p style="text-align: right;">Page 151</p> <p>1 A. No. Maybe you should -- would you repeat it?</p> <p>2 MS. ABREU: Would you read back the 3 question, please or I can clarify if you like?</p> <p>4 (Reporter read back the last question.)</p> <p>5 A. Yes, there were.</p> <p>6 Q. And just to clarify for the record, those would 7 be the reports marked as Exhibits 1 through 7; 8 is that correct, the project status reports?</p> <p>9 A. I don't understand the question.</p> <p>10 Q. The project status reports --</p> <p>11 A. Yes.</p> <p>12 Q. -- to the management committee are marked here 13 today as Exhibits -- some of them have been 14 marked here today as Exhibit 1 through Exhibit 15 7; is that correct?</p> <p>16 A. Let me look. That's correct, yes.</p> <p>17 Q. And you stated earlier today that Exhibits 8 18 through 13 were operations updates to the 19 Bentley board which you drafted; is that 20 correct?</p> <p>21 A. That's correct.</p> <p>22 Q. And in those operations updates, under the 23 heading that says Spain Activities?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 153</p> <p>1 CERTIFICATE</p> <p>2 I, PAUL FITZGIBBONS, do hereby certify that I 3 have read the foregoing transcript of my 4 testimony, given on August 3, 2006, and I 5 further certify that said transcript is a true 6 and accurate record of said testimony (with the 7 exception of the corrections listed below):</p> <p>8 Page Line Correction</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 Dated at , this</p> <p>18 day of , 2006.</p> <p>19</p> <p>20 PAUL FITZGIBBONS</p> <p>21 SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY</p> <p>22</p> <p>23</p> <p>24 slb</p>

39 (Pages 150 to 153)

Page 154

1 CERTIFICATE

2
3 COMMONWEALTH OF MASSACHUSETTS
4 SUFFOLK, SS

5 I, Sandra L. Bray, Registered Diplomate
6 Reporter and Notary Public in and for the
7 Commonwealth of Massachusetts, do hereby
8 certify:

9 That PAUL FITZGIBBONS, the witness whose
10 deposition is hereinbefore set forth, was duly
11 sworn by me and that such deposition is a true
12 record of my stenotype notes taken in the
13 foregoing matter, to the best of my knowledge,
14 skill and ability.

15 IN WITNESS WHEREOF, I have hereunto set
16 my hand this 7th day of August, 2006.

17
18 Sandra L. Bray, RDR
19 Registered Diplomate Reporter
20
21
22
23
24

A	actions 44:7 activities 54:18 98:2,6,12 99:22 100:16,17 103:22 104:1,6 109:13,19 111:13,19,23 116:13 118:14 118:19 119:9 120:3 122:1,7,10 123:6,22 145:13 145:19 150:20 150:23 151:23 152:1,1 activity 123:6 actual 48:6 actuality 24:13 add 50:21 74:4 89:18,18 90:18 added 9:18 23:5 addition 23:16 24:3 92:4 136:2 additional 23:5 37:23 38:17 120:7 Adolfo 134:7,14 134:16,18 136:14,22 140:2 143:17 advance 87:18,20 advised 86:19 affairs 65:21 affiliated 131:11 affirmed 5:6 after-action 42:24 49:20 after-action-type 21:16 agencies 10:1 18:23 agency 11:8,9 12:15 agenda 42:21,23 43:20 agendas 129:15 ago 10:4 18:15 19:7 32:20 49:6 57:3,7 62:8 96:11 129:5 132:4 136:12 147:15 agree 62:19	agreed 7:18 agreement 7:17 41:21 71:4 agreements 10:2 ahead 11:21 110:10 Air 12:13 al 3:13,19,22 4:3,6 4:8,12,16 64:2 77:1 79:21 95:1 100:22 110:2 120:8 Alabama 9:17 aligned 29:14 American 146:13 amount 123:1 Angell 1:20 2:10 Annapolis 15:12 15:13 annual 33:23 annually 30:23 38:6 answer 6:3,9,14 7:15 23:3,4 29:20 30:2,3 37:17 40:11,13 51:2,69:13 74:3 74:15 78:6,7 91:5 98:9 108:7 115:15 answered 41:24 44:19 53:15 55:5 60:17 62:3 76:2 76:20 127:20,21 144:19 145:6 147:10 answers 6:18 antifungal 71:20 APPEARANCES 2:1 appeared 44:1 appears 57:1 62:14 66:5 71:12 75:15 106:6 107:4 111:2 135:17 applicable 1:15 applications 10:19 19:3 appraisal 32:23 33:2 apprised 55:9	approach 8:14 approached 8:9 appropriate 23:22 28:16 29:9,22 30:4 44:15,17 approval 91:8 106:15 110:19 121:5 128:22 130:9 142:1,2,12 approvals 129:12 129:13,20 130:1 132:5 approve 123:14 124:17 approved 89:6 91:6 95:23 101:19 108:2 110:21 118:4 approximately 10:21 36:15 39:6 39:12 43:2 54:5 April 114:1 area 13:4 17:12 111:13,16 126:13 areas 32:16,18 33:6,7 47:11 88:17 100:15,16 100:20 114:16 114:18,22 119:5 119:5,7 121:20 arms 19:11 arrival 36:18 arrive 99:12 arrived 37:1 41:13 41:18 asked 7:14 24:23 41:23 52:13 53:14 60:16,21 62:2 76:1,19 86:17,24 94:19 127:19 144:18 145:5 147:9 asking 37:11 51:1 83:11 87:22 92:22 109:7 asks 66:1 aspects 35:11 assigned 84:16 assignment 16:6 assignments 15:14 15:17	assist 29:2 53:2,7 55:1 assistance 8:10 26:16 28:20 125:9 130:13 131:2,15 assistant 131:12 134:8 136:13 assisted 24:2 53:12 146:6 assisting 23:18,20 25:6,9 associated 48:3 131:11 Association 146:14 assume 7:3 57:5 assuming 141:2 attach 37:12 attached 3:9 4:17 55:24 56:5 120:10 attachment 4:11 57:3,5 106:2 124:9,11,14 attempt 58:15,16 58:18,24 attend 103:9,14 attended 60:3 68:23 73:23 79:7 81:21 103:7,11 105:7 attendees 60:6 attending 48:17 attention 76:23 105:14,17 attracted 16:23 attractive 17:15 Aughey 26:22,24 27:5,8 August 1:22 26:5 26:6 31:24 153:4 154:16 authorities 126:12 authorization 128:11,17,22 authorized 18:12 automating 12:8 Avenue 1:21 2:11 average 145:7 awards 33:22 aware 88:22 92:16
---	--	---	--	--

92:23,24 93:5 94:11 105:8,10 114:21 a.m 1:23 40:8,9 70:4,5 94:15,16	B B 3:6 4:1 148:21 148:21,24,24 BAACH 2:3 back 23:3,4 25:16 33:24 40:10,12 71:24 72:1 89:3 89:13 90:10 93:16 110:6 132:3,19 141:10 147:13 150:18 151:2,4 background 9:20 10:5,8 130:22 base 51:14 based 33:20 51:15 57:12 61:20 65:1 78:2 81:8 104:24 119:19 basically 55:6 131:20 basis 24:8,11 33:13 75:11 86:5 86:16 88:20 108:8 Bates 133:9 Bates-numbered 77:12 80:7 120:17 BCC 97:13 bearing 56:5 began 20:18 23:17 25:6,9,12 beginning 24:4 72:21 76:13 117:11 137:17 begins 56:16 behalf 1:14 BEL 133:9 believe 5:20 114:1 147:11 Belmac 53:24 100:8 126:12,21 126:24 127:6,10 127:14,17 128:5 128:6,11 129:14	129:21 130:11 132:6,8 134:11 136:17,19 137:3 137:5 138:10 139:22 143:7,13 144:13 147:17 150:9,12,15,24 152:2 Belmac's 137:22 Belvoir 11:4 benefit 18:11 BENTL 56:6,17 61:6,7 64:12 67:16 72:21 77:13,13 80:7 95:8 101:5 106:8 107:7 117:2 120:17 Bentley's 25:20 26:12 51:17 52:7 54:18,22 62:6 70:12 87:9,13,14 150:24 best 25:8 29:13 50:24 52:16 57:15 59:1 66:16 69:6,7,21 74:9 86:13 88:21 93:20 102:9 114:10 134:15 154:13 better 74:11 big 15:6 25:5 Birmingham 9:17 birthday 14:16 bit 9:21 40:14 65:8 70:9 88:3,14 123:3 board 24:10 25:13 41:7 86:6,15,17 86:24 87:9,14,18 87:22,24 88:1,2 88:11 89:7,10 90:24 91:14,14 91:18,22 92:2,5 92:11,18 93:7,11 93:15 94:9,20 95:16 96:8,13,17 96:20 97:5,7,9 97:18 100:13 101:14 102:8,11 102:13,17 103:3	103:6,7,8,9,11 103:14 104:15 105:6,7,9,12 106:20 107:10 107:14 108:5,12 110:17,22 111:1 112:6 113:9,11 117:10,17,20,22 117:24 119:18 121:1,3,8,24 124:21 129:24 151:19 boat 16:18,20,22 Boating 16:17 Bob 22:21 23:17 34:23,24 35:7 42:4,5 65:20 71:1 97:3 126:18 136:5 142:5 146:11 bodies 126:2 Bolling 4:6,8,16 95:1 96:20 100:22 120:8 bonus 36:9 Bonuses 33:15 booth 146:12,15 boring 17:8 born 149:17 Boston 1:21 2:12 bow 16:21 Bray 1:17 154:5 154:18 break 7:6,13 40:4 40:6 70:2,6 94:13 132:15 breaks 7:8,20 44:24 Brenda 130:19 135:2 brief 128:1 bring 48:10,10,15 49:7 105:16 144:23 bringing 145:2,8 145:10 broke 132:19 broken 71:12 brother-in-law 8:19 29:18,23 brought 5:16 11:9 27:6,8 34:20	49:2 105:14 building 26:4 bullet 71:12,14,20 bulletized 18:19 business 8:11 10:11 22:23 42:7 54:18,22 62:6 68:16,18 73:18 78:24 81:16 96:9 102:3 107:21,24 111:10 118:11 121:16 137:6,11 137:14 busy 109:9	154:8 CFO 22:20 42:4 challenge 16:24 chance 56:8 change 16:24 17:3 17:9,14 18:13 24:15,17,21 25:18 34:15,16 34:18,19 54:13 63:3 112:1,2 124:17 changed 11:10 24:18 32:23 62:14 63:5 93:24 94:5 99:12 120:1 123:21 124:1 changes 23:14 49:18 50:16 51:15 54:7,9 62:24 63:2,19,23 66:2,23 91:11,11 108:4 110:7 119:3 changing 59:20 charts 20:12 21:24 Chicopee 15:23 16:7 chief 65:18 children 149:6,9 chuck 145:17 chunk 34:22 circulated 43:7,9 circumstances 124:3,20 Civil 1:16 clarify 7:1 21:21 22:7 23:10 43:15 49:4 62:18 82:14 88:7 95:22 150:2 151:3,6 class 16:12 classified 14:13 clean 78:15 clear 6:7 56:16 78:11 80:22 112:13 139:4 Cleveland 96:23 client 12:12 clients 12:10 clinical 22:22 23:18,20 42:5 65:20 136:6,7
---	---	--	---	--	---

close 8:3 58:5	communications 69:2	concluded 152:7	copy 3:8,13,16,19	153:8
clothing 145:4,7	companies 115:2	condition 6:16	3:22 4:3,6,8,10	corrections 89:20
coats 145:2	company 8:10	7:12	4:12,14,16,19	153:7
cold 79:4 81:24	9:19 10:3 13:2	conducted 21:17	49:13,15 50:17	correspond 58:14
144:17,21	19:1,12 20:24,24	77:20 80:17	50:18 55:20,22	counsel 23:1,1
colder 81:24	21:18 23:16	conference 42:12	64:2 67:5 72:11	42:7 65:20
collaborations	24:18 26:20	42:13 146:13,23	74:7 77:1 79:21	102:18,19,20
35:1	29:11 30:16	conferences 23:22	89:24 95:1	103:1,2,3,8
collect 91:9	36:18 39:5 41:4	25:7 146:14	100:22 105:24	112:24 113:1,3,4
colors 89:19	41:6 48:23 55:7	confirm 54:9	107:23 108:2	113:11,11,13,17
column 58:7,9,9	58:1 86:20 91:17	consecutively	110:2 116:19	114:8 115:19
58:10,12 70:20	113:6,8 114:10	67:16 72:21	117:15,16,18,21	116:9,10,10
70:21 71:18	115:21,23 116:2	77:12 80:7 106:8	120:8 133:2	couple 136:23
columns 58:6	125:11 131:4,12	120:17	corporate 125:15	146:4 148:14
combination	131:13,19,21	consensus 59:5	corporation 10:19	149:22 150:2
139:8	132:10,13	consider 10:8	course 35:17	
combined 63:8	company's 96:9	consist 11:5 106:7	54:17,21 68:18	
come 8:7 13:6	111:10 118:11	consisted 11:7	73:17 78:23	
14:17 19:4 33:24	121:16	consistent 100:20	81:15 96:9 102:3	
46:19 116:15,16	compensation 33:19 37:4,7,18	consisting 64:10	correct 10:6 13:20	
123:3 144:2	38:11	77:10 117:1	27:9,15 40:18,19	
147:13	compilation 51:10	consulting 26:20	49:13 50:9,23	
coming 5:11 17:13	147:8	131:13	51:6,18 56:17,20	
27:13,20 99:17	compile 57:10,12	contemporaneous 56:21 58:7,8	56:21 58:7,8	
100:1	57:18,21 60:14	69:8	60:15 62:1,12,16	court 1:1 5:23
command 12:13	62:1 64:24 65:5	content 109:12	62:17,23 65:10	6:11 55:17 71:23
16:1	68:9,13	contents 53:18,24	65:14 69:17,23	77:8 79:19
commander 13:11	compiled 104:17	79:10 82:3,7,18	70:14 71:8,15	132:24
13:22	104:23 119:19	83:1	75:11,12,22	cover 48:16 65:13
commencing 1:22	119:22	context 52:9,15	76:21 78:16	72:19 77:11 80:5
comment 120:5	compiling 53:2	84:15	83:15 86:7,8,12	106:7 108:3,18
123:23 132:3	54:3	continued 4:1 41:8	94:22 96:13 98:2	covering 67:13
commented	complete 6:18	contract 18:6,7	98:15,22 99:1,2	120:16
112:17,18	20:12 24:15	24:1 26:18	103:22,23	cross 48:8 49:12
commenting	25:18 33:11 45:1	114:24 130:12	104:11 106:24	89:18 90:20
112:20	84:8 89:5	131:2,12	107:17,21	CSR 1:18
comments 79:14	completed 28:18	contracted 26:16	108:21,22	current 145:14,16
90:17 112:10	completely 6:23	125:9	109:14,15,17,20	curve 9:21
128:21 143:18	51:1 78:11	contractor 11:13	109:24 111:14	cut 11:19 88:6
143:21	completion 19:20	13:3,5 17:7,10	111:17,18,20,21	 D
Commission	components 12:9	contracts 9:14	112:16 118:14	
125:16	18:11	18:24	118:17,20	
committee 100:3	computer 22:9	contractual 71:4	121:12,17,21,22	
151:12	48:23	control 12:6,17	122:2,5,8 125:2	
Commonwealth	concerning 126:2	20:13	127:7 133:20,21	
1:19 154:3,7	128:5 150:5	convenient 40:3	134:18 135:19	
communicate	concerns 113:5	conversations 136:9	136:14,15	
53:17,21,23	Concha 133:22	cooperative 10:2	146:21 147:18	
communicated	134:4,6,13,18	copied 133:16	150:10 151:8,15	
81:9	136:13,23	copies 48:14 49:1	151:16,20,21	
communicating		49:7,9,24	corrected 99:11	
82:1			correction 89:4	

133:3 153:17	34:14,22 35:4,12	discuss 7:18 19:14	101:3,4,8,10,12	drugs 122:17
dates 137:8	42:6,8 98:20	44:1,10 46:14	105:23 106:6,10	130:8
day 7:7 153:18	99:16,17 100:17	55:20 58:18	106:12,14,17,23	duly 5:5 154:10
154:16	104:11,17,22	79:10 109:3	107:3,12,19	duties 9:17 13:22
days 139:2,3,6,7	105:2 109:16	115:22 116:1,5	110:1 116:18	29:12 115:20
deal 125:8 144:23	111:17 118:16	142:22	117:1,4,6,8,14	duty 15:5
148:15	119:16,23 120:6	discussed 44:4	120:7,16,19,21	D.C 2:6 13:4 17:12
dealings 136:5	122:4 123:16,18	70:13 78:3,19	120:23 124:8,11	E
debacle 11:10	Diabetes 146:13	97:19 114:18	132:22 133:8,11	E 3:1,6 4:1 5:1,1
December 3:15	different 33:7	128:20 129:19	133:14,18,20	130:19,19
64:3,5 65:12	34:12 89:19	129:21	146:20 147:3,5,8	149:16 153:1,1
100:23 101:21	differentiate 84:9	discussing 68:2	documents 21:24	ear 6:19
decided 124:13	difficult 37:14	70:7 78:13 80:24	74:10 83:3,4	earlier 36:11
deduce 72:8	Diplomate 1:17	94:17,18 97:23	131:3 134:24	40:15,16 43:7
Defendant 1:10	154:5,19	132:20 143:4	146:4	44:20 54:24 55:5
2:9	direct 47:6,9	discussion 45:9,11	Dodge 1:20 2:10	60:8 61:17 64:22
defense 11:9,12,14	128:12	45:18,19 46:17	doing 17:2,11	65:8,9 68:2
13:3 17:7,10	directed 47:3,4,23	55:7 72:4,8 83:1	24:22 29:15	70:11 75:9,18
defense-contrac...	49:11 50:21	83:7,21 94:14	43:23 58:3	78:13,19 80:24
14:10	58:23 74:5 131:4	143:2	122:21,24	84:14 86:3,9
degree 131:9	direction 47:22	discussions 45:16	Dr 22:21,23 23:17	93:21 97:19,23
DELAWARE 1:2	52:17	55:14 57:7 70:9	42:4 135:1 136:5	100:12 109:22
delete 48:6 50:21	directions 52:20	dispensed 59:12	146:7	109:22 119:17
deletion 48:2	directly 28:5	dispose 49:23	draft 24:9 61:19	124:24 140:1
delivered 96:14	32:15 35:6 88:1	dissatisfaction	77:21,23 78:2,8	146:5 148:9,16
Department 11:14	104:3 116:14	67:2	86:4,14 88:10,12	149:24 150:3,10
departure 124:6	director 9:13 11:3	distributed 49:20	88:19 89:1,9	151:17
deponent 5:3	11:6 14:1,2	distribution	90:13,15 91:10	early 20:20 39:9
deposed 5:23	15:24 16:4 17:17	102:16 105:18	96:1,5 101:19	39:11 66:4
deposition 1:13	24:19,19	105:20	106:15 107:1,3	easily 6:14
27:11 152:7	directors 24:11	DISTRICT 1:1,2	107:12,15,16,22	edit 123:2
154:10,11	25:13 86:6,17	divide 37:9	108:4,11 109:13	edited 99:12 120:1
describe 45:18	87:9,14,18 89:8	divided 58:6	110:8,19,21,24	123:20,24
54:20	90:24 91:15,22	doctor 136:21,22	118:3 121:4,7,8	editorial 89:4
described 136:10	92:2,12,18 93:7	document 17:24	123:9,12,14	EDMICS 12:5
description 3:7	93:11,15 94:9,20	18:16 54:21	drafted 61:11	educational 9:15
4:2 17:17 18:16	95:16 96:13,18	55:16 56:5,13	64:19 67:23	9:23
18:18	96:21 97:18	60:6,19 61:4,5,8	86:11 91:1 95:16	Edwards 1:20
desire 138:21	100:14 101:14	61:10,12 64:9,10	95:22 99:9	2:10
desires 114:7	102:11,14,17	64:12,14,16,18	101:18 117:9	eighteen 12:4
destroy 50:15	103:4 104:15	67:15,17,19,21	151:19	either 20:20 58:22
destroyed 50:14	105:6 106:20	69:16 72:24 73:2	drafting 25:12	109:4 126:18
determine 88:15	107:10,14 108:6	73:4 76:24 77:8	88:4 93:13 124:3	127:3
determined 59:14	108:12 110:17	77:10,14,16,18	124:20	electronic 49:5
59:18 114:9	110:22 111:1	77:21,23 78:2,22	108:1 109:3	50:17,18 93:17
develop 40:24	112:7 113:9	78:22 79:18	drawings 12:8	145:18,21
131:3	117:10,17,20,23	80:11,13,15	drive 48:24	eliminated 63:4,4
developed 40:16	118:1 119:18	81:13 82:21 91:7	driver's 5:2	Embarked 15:13
119:2	121:1,3,8,24	91:10 94:24 95:6	drug 19:3 122:15	embellish 90:19
developing 24:3	124:21 129:24	95:7,10,12,14,17	122:19 130:4	employed 7:22 8:1
development	disagreed 114:17	95:19,21,22 96:1	135:22,23	10:13,16,18,20
22:21,22,24 34:6	disagreement 59:8	96:5,7 100:21		

11:16,17 12:22 13:15 87:5 employee 18:9 100:7 employees 29:12 35:14 51:22 57:14 61:21 68:7 79:12,16 136:16 137:2 139:22 employment 12:24 13:1 17:14 17:21,23 18:2,5 18:6,8,13 28:4 30:5,7,9,10 31:14,17 encompass 25:24 ended 88:16 94:7 engage 10:1 engaged 19:12 engagement 18:22 engineering 12:6,7 12:8,16 enjoy 16:16 Enjoyed 140:7 enlisted 14:18 15:7 ensure 92:10,17 entail 34:19 enterprise-type 11:7 entire 64:12 91:21 92:2 entities 125:22 entries 145:24 equated 63:7 equipment 139:15 140:10,14,16,18 142:16,22 143:1 143:6,9,12,14,19 143:23 144:1,3 147:17,22 148:5 148:12,13 ESQUIRE 2:7,13 essentially 17:2 34:21 37:10 55:11 96:15 estimate 37:6,7 98:4 et 3:13,19,22 4:3,6 4:8,12,16 64:2 77:1 79:21 95:1 100:22 110:2	120:8 Ethypharm 1:4,5 5:13,14,15,15 Europe 126:3 evaluation 31:14 31:17 evaluations 30:7,9 30:13,22 32:1,6 32:21 33:12 event 115:20 events 48:4 51:16 52:2,8 eventually 19:2 everybody 115:21 exact 25:14 exactly 32:10 39:8 59:5,16 139:3 EXAMINATION 5:10 149:23 examine 142:15 example 47:12 88:9 108:4 exception 153:7 excessively 144:21 144:21 Exchange 125:15 132:11 excuse 17:5 34:8 117:15 150:22 executive 87:6 executives 51:22 exemplary 33:21 exercised 38:15,20 Exeter 26:1,13 exhibit 55:18 56:1 56:4,9,11 60:23 61:2 62:21,22 64:1,6 65:9 67:4 67:9,12,15 70:17 72:10,15,18 77:5 77:9 78:16,18,21 79:20,20 80:1,4 84:1,21,24 85:4 85:9,15,19,23 95:3 100:24 104:14,23 106:2 106:5,9 107:6 110:4,6,10,11,13 110:15 116:11 116:21,24 120:12,15 130:2 133:1,4,7 147:1	151:14,14 Exhibits 151:7,13 151:17 existing 126:9,16 expansion 148:8 expect 7:7 expense 141:22,24 142:6 experience 20:2,5 21:2,5 expertise 14:4,7 27:23 explain 27:15,22 62:24 118:22 125:4 expressing 59:7 67:1 eye 114:8,8,14,14 114:21,22 e-mail 3:8,13,16 3:19,22 4:3,6,8 4:10,12,14,16,19 22:13,15 43:10 55:22 56:4,20,22 57:4 64:2,10 65:13,23 66:1,11 66:14 67:5,13 72:11,19 74:5,19 77:1 79:21 80:5 82:6 89:7,11,14 89:16,22 95:1,17 97:13 100:22 105:21,24 106:7 106:17 117:16 117:18,23 118:1 124:11,13 133:2 133:12,20 134:20 135:3 136:10 e-mails 43:11 89:17 124:7 134:15 F F 2:4 148:21 153:1 face 144:5,6,8 facilitate 40:24 55:13 facilitated 40:17	facilitating 24:6 facilitator 46:12 facilities 25:1,21 25:23 26:8,10,12 26:13 facing 17:9 fact 41:8 105:10 134:13 factor 33:18 factored 33:10 fair 27:5,7 84:19 90:22 familiar 138:21 familiarization 138:9 139:13 148:1 far 13:16 46:13,13 110:17 117:16 FDA 125:20,23 131:4 February 13:13 13:17,19 26:2 79:22 106:1 110:17 117:16 Federal 1:16 feedback 82:5 feel 27:19 felt 46:9 Fernandez 97:1 fifteen 33:7 fifth 71:11 fights 44:24 45:3,5 filed 126:10,11,17 126:20 127:6,9 127:13 131:22 files 22:6,8 23:24 48:24 125:10,20 131:18,23 filings 19:2 125:22 126:2,5,6,24 127:13,17 128:4 final 91:6 99:13 101:19 108:1 110:19,21,24 finalized 106:19 finance 142:2 financial 10:12 47:13 65:18 find 63:2 93:17 fine 2:7 3:4 5:10 5:14 23:2 40:5	40:10 44:14 53:9 60:22 61:3 62:23 64:8 67:11 70:1 71:23 72:17 77:7 79:19 80:3 92:22 93:2 94:12 95:5 101:2 106:4 116:23 120:14 132:15 133:6 149:19,24 152:6 finish 14:23 finished 14:21 firmly 46:3,4,10 first 6:1 25:16 31:14 57:24 58:2 58:4,22 70:23 71:13,20 90:13 90:15 95:15 96:12 97:24 98:1 98:12 100:18 102:6 103:21 107:1,3,6,7 108:13 109:13 111:13 116:11 118:13 119:7 121:23 124:5 135:14 137:16 139:21 140:24 fit 114:7 Fitzgibbons 1:13 3:3,9,13,16,19 3:22 4:3,6,8,10 4:12,14,16,20 5:5,12 55:23 56:8 61:8 64:3 64:14 65:14 67:6 67:17 70:6 72:12 72:24 77:2,14 79:22 80:11,19 94:17 95:2 100:23 101:6 106:1,10,23 110:3 116:20 117:4 120:9,19 132:19 133:3 148:19,22 149:5 149:7,7,15,17,21 152:5 153:2,19 154:9 five 12:20,20 15:15 98:20 focus 9:14 119:5,6
---	--	---	---	--

follow 43:19 49:20	G 5:1 148:21	11:13 12:4	138:10 144:13	housekeeping
Followed 15:4	general 11:18,22	graded 33:8	Health 128:10,24	44:23
following 15:7,16	12:11,18,19,21	grading 33:4,5,6	130:9	human 24:24
54:8	14:11 23:1 27:18	Graduated 15:13	25:20 32:24	Huntington 1:21
follows 5:8	32:9 35:10 42:7	granted 38:10,18	2:11	I
follow-on 125:4	65:20 88:16	38:20	idea 17:13 138:18	
139:13	91:16 100:14,16	grants 33:17,22	ideas 45:20	
follow-up 43:1	112:24,24 113:3	graphics 146:18	identification 5:3	
food 44:24 45:3,5	113:4,11,13,17	great 16:1 144:23	56:2 61:2 64:7	
foregoing 153:3	114:8 115:19	ground 43:22	67:10 72:16 77:6	
154:13	116:9,10 134:10	44:20,22,23	80:2 95:4 101:1	
form 21:19,23	143:21 144:1	grounds 25:1,21	106:3 110:5	
42:21 91:10	generalist 10:9,10	25:23	116:22 120:13	
formal 17:16 33:3	generalization	group 12:3	133:5 147:2	
33:3	32:23	guess 39:8 59:16	identified 62:11	
formalized 33:4	generally 43:24	134:24 137:9	identify 32:6,13	
format 24:6 41:3,9	47:8 60:7,7	guessing 60:4	56:4 61:4 64:9	
42:18,20 43:13	114:14 141:19	Gyurik 9:6 22:20	65:17 67:12	
62:14,24 63:2	145:14	28:10,15,19 29:2	72:18 73:4 77:9	
88:15 119:3	generate 148:10	29:10 30:14,17	77:18 80:4,15	
former 25:4 26:3	generated 21:15	30:21 32:5,13	95:6 101:3,12	
Fort 11:4	generator 132:9	33:24 34:10,23	106:5 116:24	
forth 9:15 89:3	generic 122:15,17	35:7 42:5 71:1	120:15,23	
90:10 154:10	130:4	97:3 126:18	122:19 129:3	
forwarding	Geraldine 149:5	142:5	133:7 148:17	
117:18	gesture 6:10	Gyurik's 34:15,24	ignore 108:16	
foundation 78:5	getting 17:1,7	H	Illinois 15:4 16:2	
100:10	19:11 124:12	H 3:6 4:1 148:24	immediately 6:24	
four 15:11 26:6	gift 39:23	149:16	59:10	
59:17	give 17:16 33:9	habit 145:20	impaired 6:19	
frame 28:22 43:24	99:6,14	half 54:6 140:24	implies 108:14	
46:6	given 7:15 33:11	Hampshire 5:2	importance 15:18	
frames 20:21	39:23 153:4	9:16 17:14 26:2	115:19 132:12	
France 1:4 5:13	gives 6:23	26:13 27:21	important 84:9	
5:15	giving 6:18	42:14 132:1,2	impropriety 29:17	
freelance 26:19	Glaxo 71:7	149:1	30:5	
frequent 24:13	glove 113:10	Hampton 149:1	improved 41:9	
129:18	go 11:21 13:17	hand 22:23 35:22	improvement	
frequently 128:9	40:6 90:10 97:20	42:7 46:13,15	148:8	
129:12,14,16	108:20 109:2,5,8	55:17,19,19	improvements	
Friday 108:20	109:10 110:6	113:10 154:16	140:10	
full 149:12	122:20 132:3	handing 133:13	inaccuracies 93:5	
fully 6:14	138:21 147:21	happened 51:17	inaccurate 54:14	
fun 16:16	goes 142:2	happening 138:22	90:21	
function 26:7	going 40:2 72:2	happy 144:4	inaccurately 51:8	
103:5	88:7 91:17	hard 98:9 109:9	69:23	
functions 11:8	114:24 122:18	head 6:10 22:20	inception 94:6	
further 32:16	130:6 132:24	22:22,23 42:4,5	include 47:4,6	
149:20 152:5	146:20 150:18	42:7 65:20 82:24	52:8,13,21	
153:5	good 7:22 32:2	heading 151:23		
	34:22 132:16	headquarters 26:3		
G	government 11:4			

included 43:1 47:1 47:3,9 51:20 52:1 102:16 105:4 122:12 150:21 including 46:8 incorporate 49:18 incorporated 5:17 5:21 7:23 21:1 22:6 31:23 34:2 38:1,12,24 39:16 39:19,24 40:18 40:21 50:16 51:14 53:18 62:10 82:2 102:21,24 103:16,19 111:9 112:23 113:15 114:3,6 116:3,8 118:2,10 121:15 124:22 increased 37:18 increases 33:13,22 increasing 15:18 independent 84:20 84:24 85:4,9,15 85:19,23 indicate 70:20,22 indicated 58:19 61:5 70:16 129:5 132:4 indicates 20:8 121:20 indirectly 29:5 individual 33:11 individuals 70:12 100:1 102:7 industry 10:6 inform 54:12 informal 40:23 41:16 information 10:23 11:1,3,6,16 12:6 12:16 14:5,7 25:2 51:20 52:1 57:13 61:20 65:1 66:7 68:5 78:2 81:8 88:22,24 90:18 92:11,17 93:6 98:5,11 99:4,10,15,24 104:1,5,16,22	105:8,11 115:1 116:12,14 119:9 119:13,19,23 122:11,14,17 123:4,17 126:15 126:19,23 127:12,16,22 128:3,8 informed 94:21 128:15 initial 9:21 15:14 16:6 18:10 23:23 36:17,18 57:24 initially 12:13 15:3 41:6 66:4 88:13 innovation 34:8 inordinately 46:1 input 66:6 91:9 inside 102:23 installed 139:15 140:11,14 instance 130:2 instituted 33:1 institutions 9:23 instructed 59:1,3 intellectual 35:3 intend 45:1 interest 27:19 41:4 91:17 115:20 128:12 129:1 130:6 132:6,7 148:7,11,12 interested 63:9 interesting 140:7 interfere 6:17 internal 43:13,15 International 10:19 interview 9:8 interviewed 9:2,5 invited 146:15 involve 33:20 34:15 involved 14:12 15:16 19:2,18 23:23 24:3 28:3 35:11 51:23 72:7 125:1,21 126:1 involvement 125:6 126:5,6,7 147:7 involving 125:22	in-depth 139:16 in-house 23:1 27:6 27:8 103:2 112:24 113:2 116:10 irrelevant 59:13 59:15,19,21 99:8 issued 127:24 issues 113:5 item 47:24 48:4 49:12 70:23,24 99:9 135:18 items 19:19 43:1 44:3 47:17,20 48:6 49:21 52:8 55:7 71:14,17 84:7,8,20 85:1 85:16,20,24 135:15 It'll 8:3 13:6	96:4 101:23 107:17 111:4,6 118:1 121:11 jobs 20:6 John 30:16,20 join 14:14,15,17 31:22 joined 35:24 joining 39:5 joint 12:14,16 Jonathan 2:7 5:14 40:2 62:18 Jordan 22:24 42:6 65:19 92:6 102:15 105:4 112:18 114:23	109:1,7,8 112:18 113:7,13,20 114:2,16 115:16 115:18 130:23 131:9,10 136:8 136:16,19 138:12,14 140:19 141:9 142:19,19,24 144:20 148:7 knowledge 29:21 88:22 90:20 116:17 136:24 154:13 known 114:23 126:11 Kristin 149:12,15
				K
				K 122:15 keep 7:9 51:5 55:6 55:9,11 86:19 90:8 94:20 141:12,14 145:12,18,24 keeping 47:14 51:10 55:3 145:20 kept 22:8,11 54:17 54:17,21 59:20 62:5 68:17 73:16 78:22 81:14 96:8 102:2 107:19,23 111:9 118:10 121:15 141:17 kind 10:10 16:20 16:21 17:1 41:7 97:16 98:9 139:16 knew 136:13 know 5:12 6:7,12 7:6 8:16,18 13:13 30:3 32:11 32:16 35:6 40:20 41:14,17 44:24 60:4 66:2,3,22 74:16 75:2,7,13 75:17 87:5,10 90:3,7,7 91:21 91:24 94:8 97:13 98:10 102:6,9,12 102:20 103:3,5,6 108:7,8,9,20,23
				L
				L 1:17 130:19 154:5,18 labeled 61:5 Laboratorios 53:23 100:7 126:12,21,24 127:6,10,13,17 128:5,6,10 129:13,21 130:11 132:6,8 134:10 136:16 136:19 137:2,5 137:22 138:10 139:22 143:7,13 144:13 147:17 150:9,12,15,24 152:2 lacquer 71:20 lake 16:11,22 Lakes 16:1 Lance 26:22,24 large 71:12,13 146:14 larger 16:3 lasted 43:2 lately 16:15 lawsuit 5:16,24 lawyer 7:19 130:23 lawyers 7:17 lays 20:11,11,12 learning 9:21 leave 13:12 113:23

114:5,10 141:4 leaving 115:22 116:2,6 left 6:19 13:19 36:6 113:20 114:2 141:2,3,8 left-hand 70:19 legal 113:5 130:22 length 18:13 lengthy 124:12 letter 77:11 134:17 lettered 98:21 letters 58:11,14 let's 71:1 117:11 LEWIS 2:3 liaison 131:16 license 5:2 licensing 99:22 100:17 109:19 111:19,22 118:19 120:3 122:7 123:22 life 41:8 limit 44:9,11 line 20:11 153:8 list 18:19 84:8 105:20 127:24 130:2,5 listed 46:20 129:8 129:10,12,14,17 153:7 listing 21:14,15 listings 21:12,19 lists 126:9,10,16 126:20 127:5,9 little 9:21 12:20 17:8 40:14 65:8 70:9 75:15 88:3 88:14 89:3 115:11 123:3 144:24 lively 45:11,13,15 45:18,19 living 14:19 LLP 1:20 2:10 located 17:13 locations 137:5 139:10 Logistics 11:9 long 8:1,23 10:20 12:18 44:9	138:23 longer 43:4 111:22 114:7,24 look 56:8 58:10 70:17,23 71:11 93:4,16 98:19 99:21 108:3,18 109:12 110:1 111:12 116:11 119:16 121:19 122:10 123:16 130:2 139:14,16 141:10 151:16 looked 109:23 111:24 122:1 lot 37:16 90:8 lowest 58:17 luggage 144:23 lunch 132:15,20 Luncheon 132:17 Lynn 14:20	117:13,15,23 118:7 Marine 14:16 mark 55:18 60:22 79:20 89:2,16,17 132:24 marked 56:1,17 56:19 58:7,9,9 58:10 61:1 64:6 64:11,12 67:9 72:15 77:5,9 80:1 95:3,7 100:24 101:4 106:2,8 107:7 110:4 116:21 120:12 133:4,8 147:1 151:7,12 151:14 marketing 128:11 128:16 132:5 markup 89:21 109:6 markups 89:13 married 8:20,21 8:22,23 149:2,4 149:12 Massachusetts 1:19,21 2:12 main 12:10,12 maintain 125:10 146:15 maintained 131:23 major 19:16 55:6 115:20 making 63:19 108:4 man 109:9 146:12 manage 12:3 130:24 manager 10:23 11:1,17,24 12:2 27:4 134:10 144:1 managing 28:2,20 29:3 manufacturing 137:6 138:11 139:14 140:9 marathon 7:8 March 110:3 116:20 117:12	88:8 98:9 115:6 124:15 125:14 125:18 meaningless 59:13 means 108:23 meant 7:9 medical 6:16 136:22 meet 9:7 109:2,4 137:2 meeting 41:7 42:20,23 43:2,17 45:1 46:8 49:8 49:12,16,23 50:20 51:4 52:15 54:5,8 55:13 56:15 57:14,16 58:23 59:23 60:1 60:3,7,12 61:14 61:22 62:9,11,20 63:12,21,22,22 65:3 67:23 68:7 68:11,21,24 69:4 69:9,12,15,20 73:6,21,24 74:6 74:13,17,20,24 76:5,13 77:20 78:4 79:3,8 80:17 81:11,19 81:20,21,23 82:22 87:24 99:11 103:11 120:1,4 129:15 137:1 meetings 19:14 21:17 24:7 40:17 40:21 41:1,11,13 42:11,19 43:2,14 43:18,20 44:21 45:4,6,10,11,12 45:24 47:22,24 48:7,11,15,19 49:3 50:2,22 51:17,23 52:3,10 52:19,22 54:1 59:17 63:15 70:12 75:3,7,10 75:14,20,23 76:10,17 82:15 82:19 83:2,5,12 87:19,22 88:1,2 89:1 99:19 103:7	103:8,9,14 104:19 105:1,7 113:12 114:19 119:20 123:20 125:12 128:20 129:22 150:6,20 member 22:17,17 42:9 43:16 46:7 96:20 97:5,7,9 100:7 102:17 members 22:16 44:12 53:22 74:5 96:17 100:2 102:7 103:6 105:9,12 memory 83:6,8 84:13 mentioned 10:4 18:22 23:17 44:20 136:12 140:1 150:9 met 136:20,23 139:23 140:3 Michael 22:20 42:4 microgranulation 140:18 142:16 142:22 147:16 148:4 Microsoft 19:23 19:24 20:2,7,14 20:19,22 21:2 22:3,5 145:24 146:2 Miguel 97:1 Mike 9:6,6 17:22 18:2 47:12 65:18 92:6 mind 19:4 40:4 140:5 Ministry 128:10 128:23 130:9 minor 119:3 minute 13:6 mischaracterizes 83:17 91:4 142:18 147:20 missed 16:6 MOH 128:23 moment 19:7 56:3 57:3,7 96:11 110:6 129:5
---	--	---	---	---

moments 10:4 18:15 32:20 49:6 62:8 136:12 147:14 monitoring 18:24 19:1,9,20 24:6 month 75:16 76:13,14 88:10 monthly 21:16 24:8 41:10 42:11 75:11 99:10 months 26:6 37:9 morning 5:11 78:13 multiple 28:2 multiservice 12:15 multitude 11:7 Murphy's 8:24 42:17 138:12	90:15 103:10,11 103:13 new 5:2 9:16 17:14 26:1,13 27:21 30:15 42:14 66:8 88:18 108:11 132:1,2 132:10 139:14 143:12,24 144:3 147:16,22 148:13 149:1 nice 143:11 Nieves 136:21 nine 48:16 49:7 NLT 108:19,23 nod 6:10 noncompletion 19:21 nonproductive 46:17 normal 107:24 normally 43:10,21 52:17 70:21 88:17,19 89:6,18 90:18 126:13 128:18 north 15:23 148:24 Notary 1:18 154:6 note 111:21 notebooks 22:1 noted 5:4 notes 49:24 50:1,4 50:6,11,13,15,20 74:16 154:12 notice 118:13 134:15 Novartis 71:11 November 3:18,21 14:15 55:23 63:13 67:6,8,22 68:10,20 72:12 72:14 73:6,11,20 75:3,4,5,14,23 76:5,6,7,10,18 95:2 96:2 100:6 104:15 number 1:18 5:3 38:5 56:1 58:11 61:2 64:6 65:16 67:9 70:7 71:7 72:15 77:5 80:1	84:12 95:3 100:24 105:2 106:3 110:4 116:21 120:13 128:1 133:4,9 140:1 147:2 numbered 67:15 72:21 numbers 56:5 61:6 95:8 101:5 numerous 23:14 nurse 131:7 NW 2:4	offered 36:11 office 42:17 141:17 officer 16:8 65:18 87:6 offices 1:19 42:14 137:6,22 official 34:8 103:5 Oh 93:2 146:7 okay 6:6,22 7:22 10:4,16 13:7 14:14 17:16 35:24 36:6 49:6 53:2 55:16,21 58:2 59:7 60:19 61:12 63:10,19 64:1 65:5 67:4 68:9 70:1 76:9 objection 21:9 79:7 81:13 82:1 86:24 90:13 91:12,24 93:1,1 93:3 94:12,24 95:9,17 96:4,11 98:11,19 99:21 100:21 102:6 104:10,13 105:14 106:17 108:3 110:24 115:11 127:12 128:8 132:14 133:10 134:2,12 135:14 136:12 139:4 142:10 145:12 147:13 150:18 okayed 90:15 occasion 137:20 137:23 139:11 139:19 occur 52:17 87:23 occurred 52:18,22 69:8,20 74:12 83:7 87:11 123:4 148:6 occurring 119:2 October 3:10,12 8:4,6 31:19,20 56:1,14 57:16,19 58:1 59:22 60:12 61:1,14 63:13,21 offer 17:21,23 18:2,5,8 48:2	operate 139:17 operation 107:13 113:6 operational 25:12 86:4,20 operations 4:18 16:8 24:10 87:2 87:8,13 88:11 91:14 94:22 95:15 96:12 101:13 105:5 107:9 110:16,18 111:23 112:1,5 117:16,19 120:11,24 121:2 124:3,20 129:23 138:11 140:9 151:18,22 opportunity 140:8 options 18:10 33:17 36:13,15 36:20 37:13,15 37:24 38:3,8,10 38:14,17,20 order 44:1 ordinarily 122:20 ordinary 54:17,21 68:17 73:17 78:23 81:4,15 96:9 102:3 107:16,20 111:3 111:9 118:11 121:10,16 Outlook 145:24 146:2 outside 9:14,22 26:10 33:23 35:1 52:3,9,14;22 102:24 125:8 130:12 131:1 overcoat 145:10 overcome 48:4 owned 144:1 150:16 O-5 13:11
never 28:7 52:13				P

57:17 84:22 85:2 85:7,11,17,21 86:1 106:9 107:6 107:7 130:3 153:8 pages 117:1,2 PAINS 153:20 Palmer 1:20 2:10 paper 49:4,8,13,15 50:9 89:11,14,20 89:21,24 90:8 paper-based 48:8 part 46:11 51:11 57:21,23 61:24 65:5,22 66:1 68:13 73:13 78:8 81:4 96:4 101:23 111:6 118:1 147:24 partially 91:1,1,6 99:9,11 particular 14:4 27:23 32:6 44:6 45:12,14 46:16 47:11 48:4 83:6 83:8,12,19,23 88:10 particularly 140:8 patent 126:5,6 128:1,2 patents 35:2 126:7 126:9,11,16,20 127:6,9,24 128:4 Paul 1:13 3:3 5:5 88:10 148:19 153:2,19 154:9 payment 142:3 PDA 145:22 PENALTIES 153:20 pending 7:13 128:22,24 129:6 129:7,8,10,10,12 129:13,20 130:1 130:8 Pennsylvania 16:4 Pentagon 14:2 16:6 people 12:4 43:22 45:20 48:16 72:6 115:2 140:2 146:8	percent 98:17 percentage 98:4,5 99:3,3,14 percentages 99:6 99:7 performance 30:12,21 32:1,5 33:9,12,21 period 12:24 24:17 49:17 141:19 periodically 35:19 46:21 125:8,11 129:17 PERJURY 153:20 person 15:7 21:4 24:1,2 33:8 34:20 39:20,22 44:7,10,13 personal 134:7 personally 30:4 32:11 105:20 109:4 persons 44:7 52:7 60:10 65:16,17 70:22 104:6 person's 70:22 PERT 20:11 pertaining 125:19 Pfizer 70:23 84:18 pharmaceutical 10:6 22:21 34:14 42:6 125:18,19 phone 8:15 27:16 27:18,18 physician 131:5,6 piece 143:12,24 144:3 148:13 pin 109:9,11 Pittsburgh 16:3 place 24:7 28:16 42:11 51:3 52:3 63:12 74:17,20 74:23 75:8,10 Plaintiffs 1:6,14 2:2 5:13 planned 130:4 planning 125:12 plant 137:6 139:14 140:10 142:15 144:14 147:16 148:1,6	please 6:7,24 23:2 60:21 66:1 71:21 148:17,20,22,23 149:14 151:3 PLLC 2:3 point 14:21 32:16 33:24 71:20 100:6 129:7 130:7 pointed 53:10 points 71:13,14 portfolio 25:5 Portions 18:19 position 9:2,10 10:22 11:22 13:7 13:24 25:4 26:7 34:4,7,10 102:23 positions 14:10 15:15 103:18 possibly 27:20 137:9 potential 29:17 potentially 19:15 practice 86:11 109:2,4 precursor 87:21 premises 125:11 preparation 108:5 112:15 147:7 preparatory 15:9 prepare 73:7,9,13 86:18 87:1,12 88:15,19 93:10 94:19 101:15,20 101:23 110:18 111:3 117:24 118:6 121:2 146:18 prepared 82:11 87:7,18 88:19 106:23 107:1,16 110:8,19 118:3 121:4,7,10 150:5 prepares 94:8 preparing 86:21 93:14 97:17 106:15 126:9 present 23:11,13 24:8 26:24 37:21 37:22 45:23 63:16 74:7 146:16	presentation 4:21 23:21 146:10,12 146:16,19,24 presentations 25:6 146:6,9,17 presented 45:21 93:6 presently 7:22 149:2 president 8:9,12 22:19 30:15,20 34:5,13,21 42:3 65:19 press 122:18 128:19 pretty 119:4 140:16 previous 63:7 previously 8:16,18 price 3:13 9:6 17:22 18:3 22:20 35:18 37:15 42:4 47:12 52:12 64:2 65:18 66:18 92:6 97:9 primarily 8:15 9:13 19:23 21:12 22:2 44:5 48:23 102:10,12 119:24 131:16 138:20 141:22 primary 44:6 88:23 132:8,12 139:24 147:21 148:23 prior 12:24 16:6 18:22 20:6 23:17 33:2 39:5 62:20 87:23 88:20 93:22 108:14,15 111:23 124:6,7 prioritization 59:8 59:19 prioritize 19:13 58:15,16,18,24 59:4 priority 58:10,11 59:12,15,20 63:4 probably 17:8 24:13 33:7 39:8 46:5 53:1 59:16 90:12 114:23	129:23 133:15 146:17 148:3,15 problem 17:11 Procedure 1:16 process 9:8 32:24 33:2,4,5,23 55:17 88:3,8 120:6 122:20,23 processing 140:18 produced 29:6 product 98:20 99:16,17 100:16 104:11,16,22 105:2 109:16 111:16 118:16 119:16,23 120:5 122:4 123:16,18 128:22 129:2 135:22,23 production 56:5 61:6 95:8 101:4 production-nu... 117:2 products 128:9,13 128:16 129:10 129:11 program 10:11 11:24 12:1,14 15:17 22:8 programs 14:3 16:5 24:20 project 3:9,11,14 3:17,20,23 4:4 8:11 10:11 12:5 14:13 19:15,17 19:22,23,24 20:1 20:3,7,8,9,13,13 20:14,15,19,22 21:2 22:5 24:20 44:6,8 55:3,24 60:24 61:13,15 61:15,19 62:5,8 62:15 63:6,11,17 63:20 64:5,11,21 65:1 66:16 67:8 67:14 68:1 69:6 70:8,18 72:14,20 73:5,7,10,14,16 77:3,11,19 78:9 78:11 79:11,15 79:24 80:6,16,20 80:22 81:4,7,14
--	---	--	--	---

82:3,9,11 84:5 84:12 150:4,18 150:21,22 151:8 151:10 projects 9:13 14:12 17:18 19:1 19:9,12,17 21:6 21:15,20 22:13 23:22 24:19 28:2 28:20 29:3 41:4 42:22 43:5,6,19 46:20 47:2,15,18 47:21 48:1,11,14 48:18,22 49:2,8 50:4,19,22 51:11 51:16,21 52:2,9 52:14,21 53:3,13 53:19 54:4,8,16 54:20 55:1,4,7 55:10 57:8,10,12 57:18,22 58:15 58:19,20 59:19 60:15 61:16 62:12,15 63:16 64:20 68:2 70:10 78:12,19 80:24 83:6,8,19 85:5 85:10,13,16,20 85:24 131:17 150:20,23 promote 23:22 properly 6:21 19:14 131:21 property 35:3 propose 20:22 119:6 proposed 21:3 41:5 prorated 37:9 proud 143:24 144:2 provide 28:19 35:13,16 131:15 provided 17:21 18:16 30:21 96:12 122:11 130:13 providing 92:11 92:18 provisions 1:15 public 1:18 115:1 123:4 128:18	132:10 154:6 purchase 39:2,4 39:11 purchased 26:3 38:14,17 39:7 139:15 purely 24:20 58:16 purpose 54:24 55:2 91:12 138:7 138:9,12 139:12 147:21,23 purposes 42:22 142:19 pursuant 1:15 put 24:9 52:17 91:9 105:18,19 108:8 115:14 124:13 putting 53:12 p.m 132:17,18 152:7	72:1,5 83:19 98:16 151:2,4 153:3 readiness 16:1 reading 84:14 107:4 108:9 134:21 ready 80:9,10 really 37:14,16 60:2 72:4 94:3 99:14 129:18 134:13,21 141:9 146:10 reason 6:12 75:17 133:17 135:24 136:4 reasons 116:1,5 recalled 147:15 receive 30:7,12,22 30:24 31:2 36:9 36:16,20,23 37:3 51:20 52:1 68:5 74:7 79:14 98:6 98:11 99:4 112:4 126:23 127:9,12 127:16,22 128:3 128:8 133:18 received 30:9 31:15,17 36:13 37:23 38:3 39:18 57:13 61:20 65:2 81:9 103:24 119:10,12 127:5 receiving 36:4 66:10 104:5,8 112:4,9 119:13 recess 40:8 70:4 94:15 132:17 rechanneled 34:24 recognize 56:11 56:12 57:2 61:8 64:14 67:17 72:24 77:14 80:11 95:10 101:8 106:10 110:10 117:4 120:19 133:11 134:4 147:3 recollect 130:1 recollection 50:24 52:16 57:15 69:8 74:9 76:16,22	84:20 85:1,5,10 85:16,20,24 86:13 93:21 102:10 recommended 66:23 record 5:4 40:6 53:9 56:16 60:6 61:5 62:6,19 64:10 67:13 68:16 72:19 77:10 78:15 80:5 82:14 94:14 95:7 96:7 101:4 102:2 106:6 107:20 111:8 115:14 117:1 118:9 120:16 121:14 133:8 148:18,23 151:6 153:6 154:12 recordation 19:19 recorded 66:8 recording 41:3 records 93:17 141:11,12,14,17 141:21 recruit 15:3,7 recurring 24:11 86:5,19 reduce 123:1 refer 25:16 referred 12:15 43:6 57:3 62:20 referring 23:11 57:6 61:17 64:22 66:3 83:24 107:5 140:13 146:3,11 146:17 reflect 24:21 53:9 74:11,16 111:24 reflected 123:6 reflection 51:3 reflections 50:19 reflects 69:16,20 regard 9:22 71:4 104:13 119:17 132:22 regarding 18:22 150:4,19,23 regards 35:13 134:15	registered 1:17 131:7 154:5,19 regular 51:11 62:6 regulatory 23:23 23:24 24:1,2 25:10 125:1,6,9 125:10,12,14,15 125:18,19,21 126:1,2,24 127:13,16 128:4 130:15,16 131:2 131:3 132:5,20 132:23 135:4 relate 135:3,15 136:7 related 44:8 46:11 72:4 88:1 113:5 128:21 132:22 135:2 150:12 relates 135:18 relating 98:5,11 relation 103:6 113:9 129:23 relationship 26:24 27:3 29:9,16 relatively 66:8 release 128:19 releases 122:18 relevance 94:3 relevant 83:21 relieve 115:19 relocating 27:21 remember 13:1 41:16 140:3 145:2 remind 43:22 remove 47:17,20 47:24 49:12 renew 114:24 repeat 6:20 28:24 71:21 151:1 rephrase 107:11 127:3 reported 28:10 57:24 70:24 71:6 71:17,19 reporter 1:17 5:23 6:11 23:2,4 40:12 55:18 71:24 72:1 77:8 79:19 132:24 151:4 154:6,19
	R R 5:1 153:1 raise 45:24 ran 15:22 16:2 rank 13:8,10,11 Ray 16:21 RDR 154:18 read 23:3,4 40:10 40:12 71:18,24	101:8 106:10 110:10 117:4 120:19 133:11 134:4 147:3 recollect 130:1 recollection 50:24 52:16 57:15 69:8 74:9 76:16,22	104:13 119:17 132:22 regarding 18:22 150:4,19,23 regards 35:13 134:15	57:24 70:24 71:6 71:17,19 reporter 1:17 5:23 6:11 23:2,4 40:12 55:18 71:24 72:1 77:8 79:19 132:24 151:4 154:6,19

reporting 29:6,9 29:10,16,17 30:14 71:2	51:12 81:5 86:4 87:15 93:24 94:4 96:5 111:4,6	130:19 148:21 148:24 149:16 SAIC 10:18,20,22 11:1,17 14:12 36:4,7	117:11 130:3 135:14 140:9 147:16,22 seeing 74:19 seek 54:9 seeking 66:6 seen 61:10 64:16 64:18 67:19 73:2	setting 18:24 19:8 settled 119:3 setup 23:19,24 24:5
reports 21:16 23:20 27:4 63:11 64:21 66:4 70:8 87:1,8,13,17 88:4 89:9 90:23 91:13 93:8,10,14 93:14 94:8,19 97:22 99:11 100:13,15,19 109:23 119:2,17 120:1,4 121:23 122:21 123:19 141:22,24 142:6 150:5,19,21,22 151:7,8,10	112:22 113:8,10 118:1 131:1 132:23 135:4 responsibility 47:12 66:9 70:16 70:20 71:2 91:7 91:8 93:13 94:4 94:5	sail 16:14 salary 18:10 33:13 36:1,6 37:21 Sanchez 133:22 134:4,4,6,18 136:13 Sandra 1:17 154:5 154:18	sail 16:14 salary 18:10 33:13 36:1,6 37:21 Sanchez 133:22 134:4,4,6,18 136:13 Sandra 1:17 154:5 154:18	seen 61:10 64:16 64:18 67:19 73:2 77:16 80:13 95:12 101:10 106:12,14,17 110:13 117:6,8 120:21 133:14 147:5 148:3
repository 131:20	retain 25:2 48:18 48:21 49:1,15 50:11,17 90:1,9 108:1,1 131:18	satisfaction 66:18 satisfied 66:22 saw 30:4 saying 38:16 83:19 says 134:21 151:23	satisfaction 66:18 satisfied 66:22 saw 30:4 saying 38:16 83:19 says 134:21 151:23	semi-annual 24:14 86:16
represent 5:12 150:1	retained 90:3 retired 15:19 revenue 132:9,11 148:10	scale 32:3,21 schedule 24:11 41:17,18,20 42:2 58:9 63:5 76:4,9	scale 32:3,21 schedule 24:11 41:17,18,20 42:2 58:9 63:5 76:4,9	semi-annually 86:12
representative 11:12	review 56:3 83:2 100:19 107:1 123:12 139:13	scheduled 75:23 scheduling 24:6 75:19	scheduled 75:23 scheduling 24:6 75:19	semi-annually 86:12
representing 2:2,9 5:20	reviewed 29:7 92:6	school 14:21,23 15:9	school 14:21,23 15:9	send 43:11 88:12 89:2,6,10,13,20 95:21 105:18,21
required 66:2 105:11	reviewing 61:4	science 10:19 131:9	science 10:19 131:9	108:12 110:21 117:10 131:19 134:14
requires 142:12	64:9 67:12 72:18	scientific 11:18,22 12:11,19,21 14:11 34:5,8	scientific 11:18,22 12:11,19,21 14:11 34:5,8	sending 65:22 108:5
research 34:22 35:4,12 122:14 122:16,21,24 123:7	77:8 80:4 82:21 83:4 95:6 101:3 106:5 116:24 120:15 133:7	scientist 35:10 score 33:9,11 Sea 16:21 second 58:5,23	scientist 35:10 score 33:9,11 Sea 16:21 second 58:5,23	senior 29:7 sent 15:8 65:16 84:18 89:9 92:15 95:16,24 96:16 97:13 102:6 105:9,12 106:19
reserve 14:1,3 15:17,18,21,22 16:1,3,5	right 6:20 7:4 19:6 24:4 25:21,23 60:20 94:23	score 33:9,11 Sea 16:21 second 58:5,23	score 33:9,11 Sea 16:21 second 58:5,23	107:10,13 108:10,14 110:16,24 117:12,22 118:4 121:8 124:7,8,10 134:18
reside 148:24	Road 148:24	sentence 108:18	sentence 108:18	sit 125:11
residence 148:23	Robert 9:6 22:20 28:10 30:14	separate 71:14	separate 71:14 137:4	site 11:13
resident 125:10 131:18	ROBINSON 2:3	serve 33:12	serve 33:12	sitting 66:13 76:16
resolve 46:3,4,10	role 46:12	served 42:22,22 42:24	served 42:22,22 42:24	six 8:3,3
resources 20:12 24:24 25:20 33:1	room 42:12,13	seconds 132:4	server 22:11	six-month 13:1
response 66:10,13 83:13,14,18 109:6	Rota 16:8	secretary 53:7,11 134:7	services 12:9 37:4	skill 154:14
responsibilities 9:24 10:24 11:2 12:1 17:17 18:17 18:20,21 19:8 23:5,6,9,15 24:16 25:3,19 34:16,18,23,24	rough 49:23	Securities 125:15	serving 102:18	slb 153:23
	row 58:12	Sedor 30:16,20 31:15,18,22	session 7:8	small 29:11
	rules 1:16 43:22 44:21,22,23	see 6:7 17:2 71:1	set 19:15 24:12	smile 144:4,6,8
	running 26:20	72:5 100:20	41:17,18,20 42:1	SmithKline 71:7
	Russell 96:23	114:8,14,21	42:20 43:22	software 19:17,22 20:1,8
	<hr/> S <hr/>		44:11 154:10,15	sold 39:15
	S 3:6 4:1 5:1			somebody 44:18
				someone's 33:20
				somewhat 26:19

59:13 115:6,6	52:24 66:21	68:1 69:6 70:8	71:5,10,11 94:18	Summer 145:4
sorry 11:19 13:17	69:11,19 72:3	70:10,18 72:14	98:1,24 99:4,16	supervision
55:3 71:21 72:23	74:2 92:21 94:2	72:20 73:5,7,10	99:16,21 100:1	104:18,24
88:6	98:8 115:5	73:14,16 77:4,12	103:21 104:10	supervisor 142:1,4
sound 115:11	speculative 115:11	77:19 78:9,12	111:13,16,19,22	support 11:2,5,8
sounds 132:16	115:13	79:11,15,24 80:6	118:13,16,19	11:11 12:4 23:17
source 88:23	spell 148:20	80:16,20,22 81:4	123:22	26:16,18 35:6,8
99:17 123:17	spend 54:3	81:8,14 82:3,9	subjects 45:15	35:9,10,13,16
sourced 119:24	spending 46:16	82:11 91:16	46:9,19,20,23	supported 136:5
120:3	spoke 46:3	150:18,22 151:8	47:1,7 70:13	supposed 86:10
Spain 1:5 5:14,15	spouse 116:6	151:10	123:18 136:10	sure 20:7 21:22
16:9 98:1,5,12	Springfield 15:24	stay 99:6 138:23	submarine 16:13	32:7 35:15 44:15
100:16 103:22	spun 12:13	138:24	submissions	46:3 47:5 56:12
104:1,5 109:13	spur 83:3,7,8	steel 143:12	122:15,19 130:5	58:4 61:11 63:2
111:13 116:13	spurred 83:4	STENOGRAP...	submit 141:24	70:3 81:24 90:5
118:13 119:9	spurs 83:6,20	40:7	142:11	90:6 107:22
122:1,10 123:5	SS 154:4	stenotype 154:12	submitted 88:18	124:5 127:5
128:10,23	staff 140:2	steps 92:10,14,16	93:18 101:13	131:13,21
130:10,11 137:5	stage 20:9	stick 43:23 140:5	128:9,16,23	135:23 140:17
137:10,13 138:7	stages 131:16	stint 13:3	129:13,20 130:7	141:13 142:9,10
138:13,15,18	stainless 143:12	stock 33:17 36:13	130:11 132:5	146:22 148:21
139:5,12,21	stand 15:6 45:12	36:15,20,23 37:3	submitting 142:6	surface 14:2 16:5
141:3,5,21 142:7	standard 18:11	37:12,23 38:3,8	142:8	surprise 115:3,7
143:10 147:14	89:21	38:10,14,23 39:2	subsequent 30:15	surprised 115:9
151:23 152:2	standardized 33:1	39:4,7 132:11	47:1 49:19 62:21	115:10,12,17,18
Spanish 126:12	stands 84:2,3,4,5,6	Stoezle 130:19,21	121:4	switch 16:24
132:4	start 15:2 27:11	130:24 131:5,11	subsequently	sworn 5:5 154:11
speak 46:10	88:21	131:15 135:2	49:21 59:11,12	system 12:7,8,17
speaking 46:4	started 25:14 87:4	136:1	118:4	Systems 12:13
74:22 98:14	88:14	Stoezle's 131:1	subsidiaries	S.A 1:4,5
special 9:13 17:18	startup 58:5	stored 48:24	103:15,18	T
24:19	state 10:1,3 18:23	Stote 22:21 23:18	subsidiary 150:16	T 3:6 4:1 130:19
specialist 26:20	148:22	35:20 42:4 65:20	150:24	148:21 153:1,1
specialist's 26:21	stated 69:11,14	66:19 97:11	substance 7:18	tables 22:2
specific 38:5 52:6	84:14 108:17	135:1 136:1,5,5	substantive 112:1	tablet 50:7,8,9
69:14 84:7 98:14	148:9 149:24	146:7,8,11	112:2	tabular 21:12,14
98:15 114:17	151:17	Street 2:4	sufficient 21:5	21:15,19
124:2 129:3	statement 88:13	strengths 32:6,9	SUFFOLK 154:4	tabulated 33:8
137:8 140:19	states 1:1 26:10	strike 21:13 29:1	Suggest 108:19	take 6:11 7:6,13
143:11,20	57:17 108:11	37:15 51:14 55:2	suit 145:7	21:20 23:21
specifically 9:22	111:22 126:16	60:21 84:11	Suite 2:5	24:23 40:5 42:11
35:15 46:24 60:5	141:2,3,4,7	107:11 121:6,7	summaries 25:13	50:1,4,6 70:1
71:9 74:4 87:3	stationed 15:1,21	142:13 150:8	86:5	91:10 92:10,14
114:13	15:22	structured 118:23	summarized	94:12 129:16
specifics 32:8	status 3:10,11,14	stuck 119:4	82:21	132:15
specified 18:14	3:17,20,23 4:4	studies 84:18	summary 24:10	taken 1:14 40:8
60:8	44:5 55:10,24	subheading 123:5	86:18 87:1,7,13	63:12 70:4 94:15
speculate 90:8	60:24 61:13,15	subheadings	88:4 89:9 90:23	99:10 119:23
speculating 25:15	61:19 62:5,16	98:21	91:13 93:8,10	132:17 154:12
32:10 87:10	63:7,11,17,20	subitem 122:15	94:8 97:16	talk 45:22
115:7	64:5,11,21 65:1	subject 18:12	100:12 128:1	talked 71:9
speculation 30:1	66:17 67:8,14	40:14 46:11 71:3		

tangent 46:14	127:5 146:5	139:9	109:13,16,19	46:18 146:10,14
task 86:21	147:14 150:4	Thursday 1:22	116:11	typical 97:20
tasked 24:9 87:12	testifying 52:12	tie 145:7	topics 59:4,9	typically 90:11,17
97:17	testimony 5:6 7:19	time 6:1 7:7 8:10	83:23 88:17	90:18
team 22:16,18	53:11 83:17 91:4	8:12 11:11 13:24	90:20 100:15	
41:21,22 42:1,9	142:18 147:20	14:19 15:20	114:9,11 135:10	U
43:7,16 44:12	150:9 153:4,6	18:12 19:13	135:11	Uh-huh 49:14
52:8 53:22 54:10	text 65:22 66:1	20:11,21 21:4	toss 141:19 145:17	51:9 75:6 109:15
54:12 55:9 59:6	70:19 72:5 89:18	22:19 23:12,15	total 33:9 139:9	ultimately 95:23
60:8 69:3 100:4	89:19 98:16	25:14 27:1 28:13	totally 90:19 115:6	142:2
100:9 112:11,14	108:9,11 124:12	28:22,23 29:12	tour 15:5 144:14	unaware 66:23
technical 35:11	Thank 5:11 72:9	34:13,13 42:3,17	tox 84:18	90:19
technology 10:23	79:2 132:14	42:17,20 43:24	track 21:6 46:13	uncomfortable
11:1,3,6,17 14:5	148:14 149:19	44:9,11,24 45:22	55:6	7:9
14:5,8 25:2	152:4	46:6,7,7,16	tracking 19:1,9,16	understand 5:17
tell 25:17 59:22	Thanks 94:13	47:10,10 49:17	19:19 23:19,19	6:4,6,9,13,22
65:11 88:3	they'd 43:22	54:3 60:9,9 63:3	training 15:3,8,24	7:10,15 9:10
105:19 110:15	thing 19:18 46:18	63:9 68:10 69:17	16:2	18:5 20:7 28:14
123:16 138:15	48:8 51:1 72:8	73:11 74:6,10,11	transcript 153:3,5	29:8 52:5 54:19
template 42:21	102:15 148:3	82:12 88:10,15	travel 141:3,4,10	55:12 66:16 76:8
43:5,19 44:2	things 6:11 29:13	88:18 89:23,23	141:12,14	83:13 91:12
46:20 47:14,20	35:2 45:1 46:12	92:3,3 93:23	trials 23:20	112:21 134:17
47:24 49:19,22	49:24 50:20	96:21 100:6	tried 51:5	134:20,23
50:22 52:9,14,21	52:21 69:22 89:4	102:19 106:18	triggered 86:14	135:21 144:2
53:3,12,19 54:4	90:21 91:16	106:21 108:13	trip 139:9,10,12	151:9
54:7,16,20 55:1	109:10 123:3	109:11 117:9	140:22 141:21	understanding
55:3 57:7,10,12	125:19 135:1	128:20,21 129:7	142:7	6:17 69:16,21
57:18,22 58:19	150:3	130:8 135:1,1	trouble 6:24	71:19 74:12
60:14 62:12,15	think 13:14 42:8	137:13 141:9,19	true 25:22 78:16	understood 7:20
62:21 63:16	45:4 52:20 55:5	times 136:23	83:18 84:23	unique 84:2,4,6
64:20 68:1 82:22	59:5 62:9 88:16	title 9:12 24:17,18	88:13 153:5	United 1:1 26:10
82:23 88:24	89:22 92:9 93:21	24:21 34:9,12,13	154:11	111:22 126:16
templates 43:6	93:23 99:8	34:15,19 57:17	truth 5:6,7,7	141:2,3,4,7
47:2,18 48:11,14	122:16 123:2	103:5	truthful 115:16	universities 9:15
48:18,21 49:1,7	130:20 133:17	titled 103:22	truthfully 6:3	10:1 18:23
50:4,18 51:11,16	144:20 148:6	today 6:14 7:17	try 58:24	university 9:16,17
51:21 52:2 61:16	152:6	30:17,19 39:13	trying 19:13	10:3
78:12,18 80:23	third 66:6 99:21	45:5 66:13 68:3	turn 76:23 106:9	unsuccessful
ten 12:3 48:16	109:19 111:19	70:11 75:9,18	78:21	43:24
49:7	111:21 118:19	76:16 78:19 81:1	110:10	unusual 75:16
tender 16:13	122:7 123:22	83:4 86:3 100:12	two 14:10 17:9	update 4:18 44:5
terms 18:8,10	Thirty-one 9:1	113:18 116:9	24:17 26:1 42:22	86:15 88:11,21
146:18	thought 32:11,20	122:1 124:24	43:3 45:19 54:5	91:16 95:15
testified 5:8 18:15	thoughts 45:20	133:12 146:5	54:5 60:9 70:19	96:12 101:13
19:7 25:19 27:12	three 10:21 37:9	148:16 150:3,10	71:12 75:13,16	105:5 107:10,13
32:20 36:11	58:6 59:16 71:14	151:13,14,17	75:23 76:9,17	110:16,18 112:1
40:15,16 49:6,11	88:16 100:14,15	Told 105:18	90:12 109:22	112:5 117:17,19
51:15 54:24	100:20 117:1	tools 21:6,11	137:4,5 139:8	120:11,24 121:2
70:11 75:9,18	119:5,6 121:20	top 82:24	149:10	124:3 129:24
86:3,9 96:11	135:15 139:2,3,6	topic 46:17 58:7	Tyco 26:3	updates 49:18
100:12 104:13	139:7	63:7 83:20,22	type 17:1 19:18	111:23 151:18
119:17 124:24	three-day 138:24	88:23 98:12,19	28:17 29:14	151:22

use 19:22 20:14 21:6,11,13 146:1 146:2	149:12 wanted 17:2,11 109:10 132:21 150:2	35:2 41:5 55:8 131:17 works 6:2 wouldn't 40:4 135:9	00590 117:2 019989 101:5 02 31:4 02199 2:12 022269 64:12	64:5 77:4 110:4 110:10,11,13,15 116:11
usual 76:12	wanting 45:21,21	Wow 14:15	022401 72:21 022454 67:16	11th 65:12 77:20 77:24 78:3 79:3
usually 42:12 88:20 90:13 128:1	wary 17:1,4,6	write 69:22 80:19 81:3 95:19 109:1	022497 77:13 022502 77:13	11-15-01 3:17 11-17-00 4:7
U.S 12:23 13:23 19:3 99:22 100:17 126:10 148:7	Washington 2:6 13:4 17:12	writing 50:9 147:8 written 17:23 63:10 82:5 84:21 85:2,7,11,17,21 86:1	022584 106:8 022861 56:6 022862 56:17 023091 80:7 023097 61:6	11-30-01 3:20 11-8-00 3:9 11:00 70:4 11:13 70:5 11:50 94:15
U.S.S 16:11	ways 70:19	wrote 108:19 150:19	023100 61:7 03 31:6 X 3:1,6 4:1	11:57 94:16 110 4:13 111 1:21 2:11 116 4:15
V	weather 79:4 81:23	X	03862 149:1 04 31:8	12:4:14 116:21 12-15-00 3:14 12-27-00 4:9
vague 21:9 44:14 45:7 52:4 74:14 88:5 127:2	welcome 132:19	Y	04-13000-SLR 1:8	12:52 132:17
value 37:12,15,17	went 122:23 135:1	yeah 135:17	042855 133:9	120 4:18
varied 12:3 13:24 38:6	weren't 46:11 91:6 146:10	year 13:12 15:9 20:18 23:6 25:6	05 31:10 06 31:12,13 08 120:18 096 80:8	1201 2:4 13 4:16 120:13 130:2 151:18 133 4:20
various 19:2 33:6 41:4 146:8	we'll 6:7 55:20	25:9,12 26:5 30:24 31:2,19 36:21 37:3,7,18	1	14 4:19 133:4 146 4:22 149 3:5
varying 15:15	we're 31:13 43:23 152:6	38:7 39:6,9,11 82:16,20 130:4,7 137:17,18	1 3:8 32:3,21 56:1 62:21 84:12 85:23 110:3 123:5 135:15 151:7,14	15 4:21 64:3 67:6 72:12 147:2 148:24
verbally 6:9	we've 7:17 40:2 64:22 68:2 94:17 94:18 122:1	39:1 141:10 145:14 145:16 146:21 149:17	1K 122:15 1st 13:13,18,19 27:9 117:15,23 118:7	17 77:2 95:2 17th 96:2
Veronica 2:13 149:24	WHEREOF 154:15	years 8:3,3 9:1 10:21 12:20 15:11,15 17:9 20:16 21:7 24:17	1-17-02 3:23 1-22-02 4:17 1-7-03 4:20 1:39 132:18	176,000 37:22 18 3:12 61:1 18th 61:14 63:21 1946 149:18 1964 14:16,24 15:2
version 108:15	witness 1:13 3:2 53:10 61:3 64:8 67:11 69:11 72:17 77:7 80:3 95:5 101:2 106:4 116:23 120:14	133:6 154:9,15 word 21:24 22:3, 22:3 124:8,10 129:16	10 4:10 32:3,21 106:3 107:6 110:6	1970 15:13 1991 13:18,19 15:19
vice 34:5,13,21	work 17:2,7 19:13 22:9 23:21 27:13 27:20 28:17 29:5 29:7,14 32:16 33:5 35:4 123:1 125:1,6,9	137:20 138:11 139:7 140:9 142:15 144:14 147:15	10th 14:15 10,000 36:19 38:6 38:7	2 3:11 60:23 61:2 62:22 65:9 71:7 85:19 99:9,16
viewed 142:21	zero 37:16	10:03 40:8 10:16 40:9 100 4:9 61:7 98:17	10:3593 1:18 105 4:11 11 3:15,24 4:12	105:2 119:23 130:3 135:15
viewing 143:1	0	0 33:8	2nd 8:6 58:1 2-28-01 4:11 2-28-02 4:4	
Virginia 11:4	working 10:2 11:12 13:24 35:1	003065 95:8 003104 120:17		
visit 137:7,16,20 137:22 138:1,7 138:18 139:1,21 140:6,7,13 142:14,24 143:10 144:10 144:15 147:22 147:24				
visited 137:13 139:5,6,7,9,11 148:2				
visiting 138:13,15 144:12 147:15				
visits 137:4,10				
voice 45:24				
VS 1:7				
W				
wall 146:19				
wall-type 146:16				
want 15:4 33:24 108:20 109:1,8				

Page 170

2:06 152:7	27:10 34:11,12	64 3:15		
20 3:21	82:16,20 114:1	66 95:8		
20th 73:6,11,20	2005 31:19,20,24	67 3:18		
75:3,5 76:7	35:5 93:19,20			
200 26:5	2006 1:22 153:4	7		
2000 8:6 13:13,13	153:18 154:16	7 4:3 79:20 80:1		
20:16,20,20 21:7	21-foot 16:21	84:1,8,21 133:3		
22:18 23:7 24:8	22 4:18 120:9,24	151:7,15		
30:24 35:5 36:1	22nd 124:4	7th 154:16		
36:9,10,21 37:3	22-January	72 3:21		
37:7,19 38:4	120:12	77 3:24		
39:9,11 55:23	24 3:10 55:24	79 4:5		
56:14 57:16,21	56:14 57:16,19			
63:13 64:4 65:12	24th 59:22 60:12	8		
65:13 95:3 96:2	27 100:23	8 4:6 32:4,22,22		
100:6,24 101:21	27th 101:21	55:23 84:8 95:3		
104:16	275 64:13	104:14 151:17		
2000s 20:20	28 79:22 106:1	82,000 36:8		
20004 2:6	29 4:5 79:24 82:12	861 56:19		
2001 3:12,18,21	29th 80:17 81:10	862 57:17		
20:20 31:2 61:1	81:19	865 56:6		
61:14 63:13,21		9		
67:7,8,22 68:10	3 1:22 3:13 64:6	9 4:8 100:24		
68:21 72:13,14	85:15 105:3	104:23 116:20		
73:6,11,21 75:3	135:15 153:4	9th 117:13		
75:4,5,14,24	3-1-01 4:13	9:14 1:23		
76:5,7,10,18	3-9-01 4:15	90 101:5		
106:2 110:3,17	32 84:7	91 13:17,17		
116:20 117:12		92 117:3		
117:15,16 118:7	4	93,500 36:2 37:9		
137:9,16 138:7	4 3:16 33:8 67:9	95 4:7		
138:16,19 139:4	70:17 85:9	98 13:14,15		
139:21 140:12	406 72:22			
142:4,7	459 67:16			
2002 3:24 4:5,18	5			
25:11 77:2,4,20	53 :4,19 38:6			
77:24 78:3 79:3	72:15 78:16,18			
79:23,24 80:18	85:4			
81:10,19 82:12	50 38:9			
120:10,12,24	500 2:5 39:12,13			
124:4 130:4	55 3:10			
137:9 139:1,11	586 106:8			
140:15,21,24				
142:4,7,15	6			
143:10 144:11	6 3:18,22 67:8			
147:14,16	72:14 77:5,9			
2003 20:16 21:8	78:21 84:24			
22:18 25:8 26:2	6th 67:22 68:10,20			
26:2 27:9 133:3	75:4,5			
146:21,22	60 3:12			
2004 24:15,23	60,000 38:9			
25:18 26:6,15				

ESQUIRE DEPOSITION SERVICES
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JT-A-550